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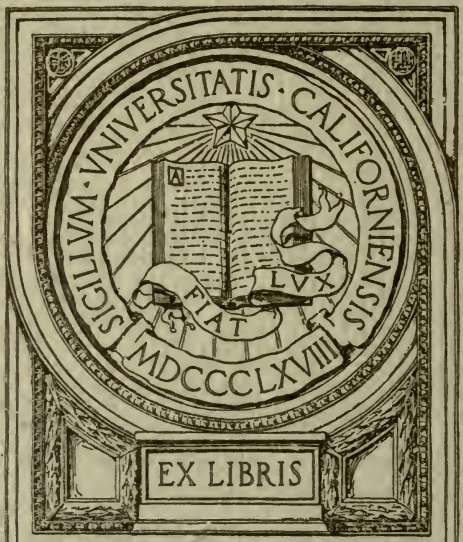

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A GOOD
BUSINESS GOVERNMENT

CHARTER

FOR

1913 HICKORY 1913

WILL MEAN MANY HAPPY

NEW YEARS

FOR

THE CITY THAT "DOES THINGS"

CLAY PRINTING CO.

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Charter for City of Hickory

AN ACT TO APPEAL ITS PRESENT CHARTER AND LAWS IN CONFLICT WITH THIS ACT, AND TO INCORPORATE THE CITY OF HICKORY.

The General Assembly of North Carolina Do Enact:

ARTICLE I.

NAME AND RIGHTS.

SECTION 1. That the inhabitants within the territory described in Section 3 of Article 1, shall continue, as they have heretofore been, a body politic and corporate, under the name and style of the "CITY OF HICKORY," and by that name shall have perpetual succession, may sue and be sued, may contract and be contracted with, may acquire and hold such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed to it, and may invest, sell or dispose of same, and may have a common seal and alter and renew the same at pleasure, and may have and exercise all the powers, rights and privileges necessary for its proper government or usually appertaining to municipal corporations.

SEC. 2. That all property, real, personal and mixed, of whatsoever character or description, and wheresoever situate, now held, controlled or used by the City of Hickory for any purpose, or which may hereafter be held, controlled or used by said city, or which may have been vested in said city by virtue of any law of the State of North Carolina, and any and all judgments, liens, rights of liens and causes of action of any and all kinds in favor of said City of Hickory, shall vest in and remain and inure to said City of Hickory, its successors and assigns, and the passage and ratification of this charter shall not release the City from any liabilities that now exist against said municipality.

SEC. 3. That the corporate limits of said city shall include all the territory situate within one mile of the center of the public square of said city, and in addition thereto shall include that property known as Lenoir Collge grounds and campus and all buildings thereon, and the dwellings of N. G. Deal and L. S. Whitener, mentioned in Chapter 97 of the Private Laws of North Carolina, Session 1899.

SEC. 4. The part of the City of Hickory lying north of the Southern Railway and east of a due north line from

the center of what is known as the public square shall be known as Ward Number One; that part lying south of said railway and east of a due south line from the center of said square shall be known as Ward Number Two; that part lying south of said railway and west of said due south line shall be known as Ward Number Three; and that part lying north of said railway and west of said due north line shall be known as Ward Number Four.

ARTICLE II.

ELECTIONS AND ELECTIVE OFFICERS.

SECTION 1. The general municipal election shall take place annually on the first Monday in April, except as otherwise herein provided; and the municipal year shall begin at ten o'clock in the forenoon of the first Monday in May, and shall continue until ten o'clock in the forenoon of the first Monday of the following May. Every special election shall be held on a Monday.

SEC. 2. On the last Monday in April, 1913, the qualified registerrd voters of the City of Hickory shall elect a Mayor and four Aldermen, no two Aldermen shall be residents of the same ward. The Mayor shall serve during a term of one year. The two elected persons receiving at said election the highest number of votes, and the second highest number of votes, respectively, for Aldermen, shall serve during a term of two years; the other two persons elected Aldermen at said election shall serve during a term of one year.

SEC. 3. On the first Monday of April of each year after the year 1913, a Mayor and two Aldermen shall be elected by the qualified registered voters of the City of Hickory. The two Aldermen shall be, respectively, residents of the wards, as hereinbefore described, in which their predecessors, respectively resided. The Mayor shall serve during a term of one year and the Aldermen shall serve during a term of two years.

SEC. 4. On the first Monday preceding every general municipal or special municipal election at which any officer mentioned in the preceding two sections is to be elected, or at which any officer provided for in any act in amendment of this charter is to be elected, there shall be held a primary election for the purpose of nominating candidates for such offices. The notice calling for said primary election shall be published at least thirty days before the date of the municipal election.

SEC. 5. At every primary election the polls shall be opened at sunrise and closed at sundown, and, except

as otherwise provided in this charter, every such primary election shall be called by the same officers and held in the same manner as a general municipal election. The polling place shall be designated, provided and furnished, and official ballots, ballot boxes, blank forms, apparatus and supplies shall be provided for every such primary election, of the same number and kind and in the same manner and by the same officer or officers as at a general municipal election.

SEC. 6. Except as is otherwise provided in this charter there shall not be printed on the official ballots to be used at any general or special municipal election of said city the name of any person or candidate for mayor or alderman, unless such person shall have been nominated for such office at a primary election held as provided in this charter. There shall not be printed on the official ballots to be used at a primary election the name of any person as a candidate, unless such person shall have been nominated in accordance with the provisions of this charter.

SEC. 7. The mode of nomination of all elective officers of the city to be voted for at any general or special municipal election shall be as follows and not otherwise:

(a) The name of a candidate shall be printed upon the official ballots for the primary election when a petition of nomination shall have been filed in his behalf in the manner and form and under the conditions hereinafter set forth.

(b) The petition of nomination shall consist of not less than twenty-five individual certificates, which shall read substantially as follows:

"PETITION FOR NOMINATION.

"I, the undersigned, certify that I do hereby join in a petition for the nomination of.....for the office of.....of the City of Hickory, and do hereby request that his name be printed upon the official ballots to be used at the primary election to be held on the.....Monday of....., 191...

"I further state that I believe him to be of good moral character and qualified to perform the duties of the office.

"I further certify that I am a qualified voter of the City of Hickory, and am not at this time a signer of any other petition nominating any other candidate for the above named office, or, in case there are several places to be filled in the above named office, that I have not signed

more petitions than there are places to be filled in the above named office.

"My residence is at number....., ...Street.

"Witness my signature, this the....day of...., 19..

Witness

....

Petitioner's Signature."

(c) It shall be the duty of the City Manager to furnish upon application a reasonable number of forms of individual certificates of the above character, at the expense of the city.

(d) Each certificate must be on separate paper; must contain the name of one signer thereto and no more; shall contain the name of one candidate and no more; and all certificates must be of uniform size as determined by the City Manager. Each signer must be a qualified voter, must not at the time of signing a certificate have his name signed to any other certificate for any other candidate for the same office, or, in case there are several places to be filled in the same office, signed to more certificates for candidates than there are places to be filled in such office. In case a voter has signed two or more conflicting certificates, all such certificates shall be rejected. All certificates must be signed by the individuals personally and their signatures shall and must be witnessed by a qualified voter of the City of Hickory.

(e) A petition of nomination, consisting of not less than twenty-five individual certificates for any one candidate, may be presented to the City Manager not more than twenty-five days nor later than ten days before the primary election, except as otherwise herein provided. The City Manager shall endorse thereon the date upon which the petition was presented to him for filing.

(f) When a petition for nomination is presented for filing to the City Manager, he shall forthwith examine the same, and ascertain whether it conforms to the provisions of this section. If found not to conform thereto, he shall then and there in writing designate on said petition the defect or omission or reason why such petition can not be filed, and shall return the petition to the person who presented the same for filing. The petition may then be amended and again presented to the City Manager as in the first instance. Whereupon the City Manager shall forthwith proceed to examine the petition as hereinbefore provided.

(g) Any signer to a petition of nomination or a

certificate may withdraw his name from the same by filing with the City Manager a verified revocation of his signature before the filing by the City Manager, and not otherwise. He shall then be at liberty to sign a petition for another candidate for the same office.

(h) Any person whose name has been presented under this section as a candidate may, not later than ten days before the day of the primary election cause his name to be withdrawn from nomination by filing with the City Manager a request thereof in writing, and no name so withdrawn shall be printed upon the ballot. If upon such withdrawal the number of candidates does not exceed the number to be elected to said office, then other nominations may be made by filing petitions therefor not later than seven days prior to such primary election.

(i) If either the original or the amended petition of nomination be found sufficiently signed as hereinbefore provided, the City Manager shall file the same ten days before the day of holding said primary election, except as otherwise provided in the preceding sub-section.

(j) The City Manager shall preserve in his office all petitions of nomination and all certificates belonging thereto.

(k) When a petition of nomination shall have been filed by the City Manager it shall not be withdrawn nor added to and no signature shall be revoked thereafter.

SEC. 8. Immediately after such petitions are filed, the City Manager shall enter the names of the candidates in a list, with offices to be filled, and shall not later than five days before the primary election certify as being the list of candidates nominated as required by this charter, and the City Council shall cause such certified list of names and offices to be filled, designating whether for a full term or unexpired term, to be published at least three days before the primary election in one or more issues of one or more papers published in the City of Hickory.

SEC. 9. Thereupon the City Manager shall prepare and cause to be printed the ballots to be used at such primary election; and the ballots so prepared shall contain the name of every candidate whose petition of nomination has been filed by the City Manager as aforesaid, and the name of no other candidate shall be printed thereon. At the top of each ballot shall be the words "Official Primary Ballot"; following this the names of the

candidates for Mayor, arranged alphabetically, shall then be placed, with a square at the left of each name, and immediately below the words "Vote for One." Following these names, likewise alphabetically arranged, shall appear the names of the candidates for Alderman from Ward Number One, if any, with a square at the left of each name, and below the names of such candidates shall appear the words: "Vote For One;" following these names like arrangement shall be made for the names of candidates for Aldermen from Ward Number Two, from Ward Number Three, and from Ward Number Four. Like arrangement shall be made for the names of candidates for each other elective office that may be from time to time provided for by law. At the bottom of each ballot shall be the words, "Instructions to voters: To vote, stamp or write a cross in the square opposite the name of the candidate for whom you desire to vote. All marks otherwise made are forbidden." All ballots shall be authenticated with a facsimile of the signature of the City Manager; and shall be precisely of the same size, quality, tint of paper, kind of type, and color of ink; and the names of all candidates shall be printed upon the ballots in the same color of ink and shall be in type of the same size and style, and the ballots shall be furnished at the expense of the city.

SEC. 10. The qualifications for voting at a primary election or at a municipal election shall be a four months residence in the city of Hickory, and the qualifications required of electors voting for members of the General Assembly of North Carolina.

SEC. 11. The election officers shall immediately upon the closing of the polls at a primary election count the ballots and ascertain the number of votes cast for each person for nomination for the office for which he was a candidate; and they shall forthwith make returns thereof to the City Council upon blank forms to be furnished to them by the City Manager.

SEC. 12. The two persons receiving at a primary election the highest number and second highest number of votes, respectively, for Mayor, for Aldermen from the same ward, or any other office, shall be candidates whose names shall be printed on the official ballots to be used at the general or special municipal election for which such primary election was held; except that in case two or more persons receive the same number of votes, and more votes than any other person for the same office,

then said persons shall be the candidates as aforesaid whose names shall be printed on said official ballots. If in order to obtain the requisite number of candidates for Mayor, for Alderman from the same ward, or for any other office, it becomes necessary to take one of two or more persons having the same number of votes for Mayor, for Aldermen from the same ward, or for any other office, then the names of all the aforesaid persons having the same number of votes for such office shall be printed on the official ballots to be used at such general or special municipal election, together with the names of all persons, if any, receiving a higher number of votes for such office, even though it makes the number of candidates more than twice the number to be chosen to such office.

SEC. 13. At the top of all ballots used at any general or special municipal election shall be the words "Official Election Ballot", and the ballots used for the election of officers shall conform in all other respects with the provisions of section nine as modified by section twelve of this article.

SEC. 14. The City Council shall appoint a registrar and two judges at least thirty days before any general or special municipal election. The names of the registrar and judges of election shall appear in the notice calling for the primary election preceding the general or special municipal election. The registrar shall be furnished at the expense of the city, with registration books, ballot boxes, and such blank forms as are required by this charter. It shall be his duty, after being qualified, to perform the functions of his office, impartially and according to law, and to open and to keep open registration books for thirty days immediately preceding the day of election; that is, the general or special municipal election. He may require any person offering to register for any general, special or primary municipal election to take and subscribe an oath that he has resided in the State of North Carolina two years, in Catawba County six months, and in the City of Hickory four months, and that he is twenty-one years of age.

SEC. 15. If any person willfully swear falsely in taking the oath mentioned in the preceding section, he shall be deemed guilty of a misdemeanor, and on conviction shall be sentenced to pay a fine not exceeding two hundred dollars or be imprisoned not exceeding sixty days.

SEC. 16. That after being duly sworn by the Mayor or a justice of the peace to conduct the election fairly, impartially and according to law, the registrar and judges of elections shall open the polls, receive and deposit the ballots in the boxes provided for that purpose, administer oaths, decide all challenges on the day of the primary, general or special municipal election then being held, superintend and conduct the primary or election in like manner and during the same hours as elections for members of the General Assembly of North Carolina are conducted.

SEC. 17. The registrar and judges of elections shall, immediately upon the closing of the polls, publicly count the ballots and ascertain the number of votes cast for each person for the office for which he was a candidate; and they shall forthwith make returns thereof to the City council upon the blank forms furnished by the City Manager.

SEC. 18. At a general or special municipal election the person receiving the highest number of votes for Mayor, for Alderman from any one ward, or for any other office shall be deemed and declared elected to such office. If two or more persons receive the same number of votes for Mayor, for Alderman from the same ward, or for any other office, for which no person has been elected, the persons rceiving an equal number of votes shall decide by lot which one shall be deemed and declared to be elected.

SEC. 19. If any judge or registrar shall fail to be present on the day of election, his place shall be filled by the Mayor at once, and if at any time the registrar is temporarily unable to act as such, the Mayor may appoint a temporary registrar to act for him after being duly sworn, or if a vacancy should occur in said office, for any reason, then the Mayor may appoint to fill the vacancy.

The registrar and judges of elections shall receive for their services such compensation as shall be fixed by the City Council; but such compensation shall in no event exceed that allowed by law for registrars and judges holding elections for members of the General Assembly of North Carolina.

SEC. 20. If a person elected fails to qualify, the office shall be filled as if there were a vacancy in such, as hereinafter provided.

SEC. 21. No informalities in conducting municipal elections in the City of Hickory shall invalidate the same, if they have been conducted fairly and in substantial

conformity to the requirements of this charter.

SEC. 22. That if the City Council shall fail to give notice of an election as herein provided, to hold and declare the same in like manner as herein prescribed, or if any officer fails to fairly and impartially perform the duties herein required to be performed by him, each of them as shall be in fault shall forfeit and pay, for the equal benefit of the city and of him who shall sue therefor, one hundred dollars.

SEC. 23. Any person who shall agree to perform any services in the interest of any candidate for any office provided for in this Charter, in consideration of any money or other valuable thing, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding three hundred dollars or be imprisoned in the county jail not exceeding six months.

SEC. 24. Any person offering to give a bribe, either in money or other consideration to any voter for the purpose of influencing his vote at any primary, general or special municipal election provided for in this charter, or any elector entitled to vote at any such election receiving and accepting such bribe or other consideration shall be fined a sum not less than one hundred dollars, nor more than five hundred, or be imprisoned in the county jail not less than four months nor more than twelve months.

SEC. 25. That all duties herein imposed upon the Mayor, the City Council and the City Manager, with reference to primaries and municipal elections, shall prior to the election and qualification of the Mayor, Aldermen and City Manager in one thousand nine hundred and thirteen, be performed by the Mayor, Board of Aldermen and the City Clerk of the City of Hickory as now constituted.

ARTICLE III.

RECALL OF ELECTIVE OFFICERS.

SECTION 1. Every incumbent of an elective office, whether elected by popular vote or appointed to fill a vacancy, is subject to recall by the qualified registered voters of the City. The procedure to effect such removal shall be as provided in this article.

SEC. 2. A petition signed by twenty-five per cent of the qualified registered voters of the City demanding an election of a successor of the officer sought to be removed, and stating in not more than two hundred words the reason for demanding the recall of the officer, shall be addressed to the City Council and presented to the City

Manager. The petition may request such election to be held at a special municipal election or at the next general municipal election.

SEC. 3. When a recall petition is presented to the City Manager for filing, he shall forthwith examine the same, and ascertain if it conforms to the provisions of this article. If found not to conform thereto, he shall then and there in writing designate on said petition the defect or omission or reason why such petition can not be filed, and shall return the petition to the person who presented the same for filing. The petition may then be amended and again presented to the City Manager as in the first instance. Whereupon the City Manager shall forthwith proceed to examine the petition as hereinbefore provided. If either the original or the amended recall petition be found to conform to the provisions of this article, the City Manager shall immediately file same and notify the officer sought to be removed of said filing.

SEC. 4. If the officer sought to be removed shall not resign within five days after the petition is filed by the City Manager, and if the petition requests a special election, the City Council shall cause a special election to be held within forty-five days to determine whether the people will recall said officer, or, if a general municipal election is to occur within ninety days, the City Council may in its discretion postpone the holding of such election to such general municipal election.

SEC. 5. In the published call for the election shall be printed in not more than two hundred words the reason for demanding the recall of the officer as set forth in the recall petition, together with such defence or answer, not exceeding two hundred words, as the officer may desire to make.

SEC. 6. The officer sought to be removed shall be deemed a candidate and, unless he resigns, his name shall be printed upon the official election ballots. The nomination of the other candidate and the election shall be in accordance with the provisions contained in the article on elections. If the officer sought to be removed is an Alderman, the other candidate shall reside in the ward of which the officer sought to be removed is a resident.

SEC. 7. The officer sought to be removed shall, if he does not resign, continue to perform the duties of his office until the result of such election is declared. If he fails of election, he shall be deemed removed from office, and the successful candidate shall be duly inducted into

office as his successor.

SEC. 8. No recall petition shall be filed against any officer until he has actually held his office for at least three months.

SEC. 9. No person who has been recalled from an elective office, or who has resigned from such office after a recall petition shall have been duly filed against him, shall be appointed to any office within one year after such recall or resignation.

SEC. 10. During any period of six months there shall not be held more than one special municipal election.

SEC. 11. The City Council may by ordinance make such further regulations as may be necessary to carry out the provisions of this article.

ARTICLE IV.

THE CITY COUNCIL.

SECTION 1. The legislative and general regulative powers of the City of Hickory shall be vested in a City Council which shall be composed of the Mayor and four Aldermen.

SEC. 2. The qualifications of the members of the City Council shall be two years residence in the City of Hickory and the qualifications required for members of the more numerous house of the General Assemly of North Carolina. The City Council shall be the judge of the election and qualifications of its own members, subject to review by the courts.

SEC. 3. The members of the City Council, before entering upon their duties, shall severally take and subscribe an oath before a justice of the peace to perform faithfully the duties of their office.

SEC. 4. If a vacancy shall occur in the City Council the remaining members shall elect a person to fill the vacancy until the next general or special municipal election, at which the vacancy shall be filled for the unexpired term by the qualified registered voters of the city. No two Aldermen shall be residents of the same ward.

SEC. 5. Each member of the City Council shall receive one dollar per meeting as compensation for his services, payable monthly: Provided, that no member shall receive any amount in excess of sixty dollars during any municipal year, except as is otherwise hereinafter in this charter provided for a member who may perform the duties of City Treasurer.

SEC. 6. The City Council shall hold regular meetings on Tuesday of each and every week at some regular hour

to be fixed by said council from time to time, and publicly announced by it; and it may hold such adjourned and called meetings as may be necessary or convenient.

SEC. 7. Three members shall constitute a quorum to transact business, but two members may adjourn from day to day and compel the attendance of absent members. Any three members may call a meeting.

All special or adjourned meetings at which any person not a city officer is present and all regular meetings shall be open to the public. Any citizen may have access, during reasonable hours, to the minutes of the City Council upon application to the City Manager.

SEC. 8. No resolution, by-law or ordinance appropriating any money for any purpose, providing for any public improvements, enacting any regulation concerning the public safety or public health, levying any tax, or of any other general or permanent nature except a proclamation of quarantine or other emergency measure concerning the public safety or public health shall be enacted, unless said resolution, by-law or ordinance shall have been read twice and passed two readings, which readings shall have been on two different days and one of which must be at a regular meeting: Provided, any emergency measure enacted shall be effective only until the first regular meeting after its enactment, unless ratified at such meeting.

SEC. 9. No ordinance shall be revised, re-enacted or amended by reference to its title only; but the ordinance to be revised or re-enacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto, shall be set forth and adopted in the method for the adoption of ordinances.

SEC. 10. Every motion, resolution, by-law or ordinance introduced at any meeting shall be reduced to writing and read before any vote thereon shall be taken and the yeas and nays thereon shall be recorded. A record of the proceedings of every meeting shall be kept by the City Manager in a well-bound book and every resolution, by-law or ordinance passed by the City Council and every motion made at any meeting must be recorded in such book, and the records of the proceedings of the meetings must be signed by at least three members of the City Council.

SEC. 11. Any three citizens may appear before the City Council at any of its regular meetings and may present a written motion. Said motion shall be acted upon

by the City Council in the regular course of business within fifteen days.

SEC. 12. No member shall be excused from voting except upon matters involving the consideration of his own official conduct. In all other cases a failure to vote by a member who is present, or who, having been present, has withdrawn from the meeting without being excused, shall be deemed, and shall be entered upon the minutes as, an affirmative vote.

SEC. 13. The City Council of the City of Hickory shall, in addition to other powers herein given them, have full power and authority:

(a) To enact and enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove nuisances, and to preserve and to enforce the good government, order and security of the City and its inhabitants, and to enact and enforce ordinances upon any subject: Provided, that no ordinance shall be enacted inconsistent with the laws of the State of North Carolina or inconsistent with the provisions of this charter; and provided further, that the grant of particular powers shall never be construed as a limitation upon the general powers herein granted, it being intended by this Charter to grant and bestow upon the inhabitants of the City of Hickory full power of self-government to be exercised in accordance with the general plan of this charter. All ordinances of the City of Hickory, when printed and published and bearing on the title page thereof the words, "Ordained and published by the City of Hickory", or words of like import, shall be prima facie evidence of their authenticity, and shall be admitted and received in all courts and places without further proof.

(b) To exercise such control over and power to require all public service corporations, and all people doing a public service business in the City of Hickory, to make such reports, and have a right to the inspection of such books and papers, as the North Carolina Corporation Commission has the right to control, require and inspect under the laws now enacted, or which may be enacted, with reference to public service corporations doing business in the State of North Carolina.

(c) To summon and compel the attendance of witnesses, and the production of books and papers, before it whenever it may be deemed necessary for the more effective discharge of its duties, and shall have power to

punish for contempt of said City Council with the same fines and penalties that the Municipal Judge may impose for contempt of the Municipal Court of the City of Hickory. All processes necessary to enforce the powers conferred by this sub-section shall be signed by a member of the CityCouncil,addressed to theCityManager,and shall be served by him or any member of the police department.

(d) To make all orders for the doing of work, or the making or construction of any improvements, bridges or buildings. It shall levy all taxes, apportion and appropriate all funds, audit and allow all bills and accounts, pay rolls and claims, and order payment thereof. It shall make all assessments for the costs of street improvements, sidewalks, sewers and other work, improvements or repairs which may be specially assessed. It shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the city unless either made by ordinance or resolution adopted by the City Council, or reduced to writing and approved by said council, or expressly authorized by ordinance or resolution adopted by the City Council. All contracts, and all ordinances and resolutions relative to making contracts, shall be drawn by the City Attorney, or submitted to such officer before the same are made or passed.

(*e*) To issue and it shall be its duty to issue general and special orders, by resolution, to the City Manager giving him power and authority to carry out, in accordance with law, any administrative powers and duties, in addition to those herein expressly conferred, that the City Council may deem wise.

(f) To require the City Manager to present, once a month a complete report, financial and otherwise, of the activities of the several departments of the city government, and special reports at any time.

(g) To validate any lawful act performed by any administrative officer of the city without its previous authority.

(h) To declare forfeited and terminate franchises granted persons or corporations for street railway, electric light, telephone, gas, power, or other public service purposes, whenever the conditions upon which such franchises were granted have been broken, or whenever, for any other reason, such franchise or franchises have been lost, surrendered or forfeited.

(i) To open new streets, change, widen, extend and close any street that is now or may hereafter be opened,

and adopt such ordinances for the regulation and use of the streets, squares and parks and other public property belonging to the city as it may deem best for the public welfare of the citizens of the city.

(j) To lay out, establish and regulate parks within or without the corporate limits of the city for the use of the inhabitants of the same.

(k) To enact, repair and alter all public buildings; to condemn any land that may be required for the purpose of erecting any building or buildings for city hall, market houses, fire companies, graded and public schools and for any other building whether like those enumerated above or not; provided, that the procedure in such condemnation proceedings shall be the same as is herein provided for the condemnation of lands for streets.

(l) To accept any money or property for the purpose of any public or corporate use.

(*m*) To issue bonds of the city after they shall have passed an ordinance by a three-fifths vote of the City Council at two separate regular meetings, submitting the question of issuing the same to a vote of the people, and after a majority of the qualified, registered voters of the city shall have voted in favor thereof. No election for this purpose shall be held until thirty days' notice thereof shall have been given by the City Council in some newspaper published in the City of Hickory. At such election, those who favor issuing such bonds shall vote a ballot on which shall be printed or written the words "For Bonds", and those who oppose it, shall vote a ballot on which shall be printed or written the words "Against Bonds". The City Council, if it deem it proper so to do, may order a new registration of the voters of said city at any and all such elections.

(n) To appoint a City Attorney, for a term of twelve months at the first regular meeting in May of each year. It shall be the duty of the City Attorney, in addition to other duties herein mentioned, to prosecute and defend all suits for and against the city, to advise the City Council, the Mayor, the City Manager and all officers and agents of the city in regard to matters connected with the city's business, and it shall be his duty, when required so to do, to attend the meetings of the City Council, and to prepare such deeds, contracts, bonds and other legal papers as may be required for the city's business. The City Attorney shall receive an annual salary of not less than $150.00 nor more than $300.00. In

addition thereto he may receive such extra compensation, as the City Council shall deem proper, for services rendered in the Superior or Supreme Court.

ARTICLE V.

THE MAYOR.

SECTION 1. The power and duties of the Mayor shall be such as are conferred upon him by this charter, together with such others as are conferred by the City Council in pursuance of the provisions of this act and no others.

SEC. 2. He shall preside at all meetings of the City Council and shall have the right to vote upon all questions. He shall be recognized as the official head of the city by the courts for the purpose of serving civil processes, and by the public for all ceremonial purposes. He shall have power to administer oaths.

SEC. 3. Such functions not enumerated in this charter as are conferred upon the Mayor by the general laws of the State shall be exercised by the City Manager, unless the City Council designate some other person to exercise same.

SEC. 4. During the disability of the Mayor the functions of his office shall devolve upon some member of the City Council designated by that body at its first meeting in May of each and every year.

ARTICLE VI.

THE CITY MANAGER.

SECTION 1. There shall be chosen by the City Council an officer to be known as the City Manager, who shall be the administrative head of the City Government.

SEC. 2. Before entering upon the duties of his office, the City Manager shall take and subscribe an oath that he will faithfully perform the duties of his office and shall execute a bond, with an incorporated bonding company or companies as surety or sureties, in favor of the city for the faithful performance of his duties. The amount of the bond shall not be less than seven thousand five hundred dollars, and may be increased or a new bond required by the City Council whenever it may deem it advisable.

SEC. 3. The term of the City Manager shall be at the pleasure of the City Council.

SEC. 4. The City Manager shall not be personally interested in any contracts to which the city is a party, for the supplying the city materials of any kind.

SEC. 5. It shall be his duty to attend all meetings of

and to recommend to, the City Council, from time to time, such measures as he shall deem necessary or expedient for it to adopt, and to furnish it with any necessary information respecting any of the departments under his control. He shall accurately keep the minutes of the City Council.

SEC. 6. He shall transmit to the hands of the several departments written notice of all acts of the City Council relating to the duties of their departments, and he shall make designation of officers to perform duties ordered to be performed by the City Council.

SEC. 7. He shall sign all contracts, licenses and other public documents on behalf of the city, as the City Council may authorize and require.

SEC. 8. He shall have access at all times to the books, vouchers and papers of any officer or employee of the city, excepting the City Treasurer's books, and shall have power to examine, under oath, any person connected therewith.

SEC. 9. He shall have power to revoke licenses pending the action of the City Council.

SEC. 10. He shall have authority and charge over all public works, the erection of buildings for the city, the making and construction of all improvements, paving, curbing, sidewalks, streets, bridges, viaducts, and the repair thereof; he shall approve all estimates of the cost of public works, and recommend to the City Council the acceptance or rejection of the work done or improvements made; he shall have control, management and direction of all public grounds, bridges, viaducts and public buildings; he shall have control of the location of street car tracks, telephone and telegraph poles and wires; he shall have charge of the water sheds from which the city takes its supply of water, pumping stations, pipe lines, filtering apparatus, and all other things connected with or incident to the proper supply of water for the city; and shall secure all rights of way and easements connected with the water works or sewerage systems or the extension of the streets, etc.

All the powers enumerated however shall be exercised subject to the supervision and control of the City Council.

SEC. 11. He shall have power to suspend, fine and dismiss any member of the police, fire, water works and sewerage and street departments in the interest of discipline. But any officer, appointed or elected by the City

Council to a position in said departments, who has been suspended, fined or dismissed, may appeal to the City Council at any of its regular meetings, and it shall review his case, affirm, or modify or reverse the order of the manager and make any restitution within the law, which it may deem advisable. The City Manager shall promptly report all suspensions, fines and dismissals as hereinafter provided in the article in reference to the police powers of the City of Hickory.

SEC. 12. The officers and other employees of the Police department, fire department, street department, and the water works and sewerage department shall be elected for a term of one year from a list submitted to the City Council by the City Manager, and if the City Council is unable or refuses to elect from the list so furnished it shall call on the City Manager from time to time for other lists, which it shall be his duty to furnish.

ARTICLE VII.

FRANCHISES.

SECTION 1. Every franchise or privilege to construct or operate street, suburban or interurban railroads along, upon, over or under any street, highway, or other public place, or lay pipes or conduits, or to erect poles or wires, or other structures in, upon, over, under or along any street, highway or other public place in the City for the transmission of gas or electricity, the conducting of a telephone system, or for any purpose whatever, shall be granted upon the conditions in this article provided, and not otherwise.

SEC. 2. An applicant for a franchise or privilege shall file with the City Council an application therefor, and thereupon the City Council shall, if it propose to grant the same, advertise the fact of said application, together with a statement that it is proposed to grant the same, in one or more newspapers published in the City of Hickory and one or more daily newspapers published in the State of North Carolina. The publication of such advertisement must run for a period of thirty days and must be completed not less than twenty and not more than thirty days before any further action can be taken on such application.

SEC. 3. The advertisement must state the character of the franchise or privilege it is proposed to be granted, and if it be a street, suburban or interurban railroad, the route to be traversed; that sealed bids therefor will be opened at a stated time and place, and that the franchise

will be awarded to the bidder offering to pay to the City during the life of the franchise the highest percentage of the gross annual receipts received from the use, operation or possession of the franchise.

SEC. 4. At the time of opening the sealed bids, any responsible person, firm or corporation, present in person or represented, may bid for such franchise or privilege not less than one-fourth of one per cent. of the gross annual receipts above the highest sealed bid therefor, and such bid so made may be raised not less than one-fourth of one per cent. of the gross annual receipts by any other responsible bidder, and such bidding may continue until finally such franchise shall be struck off, sold and awarded by the City Council to the person, firm or corporation offering the highest percentage of the gross annual receipts arising from the use, operation or possession of such franchise; provided that if, in the judgment of the City Council, no adequate or responsible bid has been made, the City Council may withdraw such franchise from sale or advertise for new bids.

SEC. 5. Every application and bid for franchise under this article shall be accompanied by a cash deposit of two thousand dollars or a certified check therefor as a guarantee of the good faith of the applicant or bidder, and as a fund out of which to pay all expenses connected with such application and the granting of such franchise.

Upon the franchise being awarded, all deposits made by unsuccessful bidders shall be returned. The deposit of the successful bidder shall be retained until the filing and approving of the surety bond hereinafter provided for, whereupon the remainder of such deposit, after the payment therefrom of all expenses incurred by the City in connection with the advertising and awarding of such franchise, shall be returned.

SEC. 6. No clause or condition of any kind shall be inserted in any franchises or grant offered or sold under the terms of this article which shall directly or indirectly restrict free and open competition in bidding therefor, and no clause or provision shall be inserted in any franchise offered for sale which shall in any wise favor one person, firm or corporation as against another in bidding for the purchase thereof.

SEC. 7. The successful bidder for any franchise or privilege awarded under this article shall file a bond running to the City to be approved by the Council, in the

penal sum by it to be prescribed and set forth in the advertisement for bids, conditioned that such bidder shall well and truly observe and faithfully perform each and every term and condition of such franchise and that in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and surety upon such bond.

Such bond shall be filed with the City Council within ten days after such franchise is awarded, and within thirty days after the filing and approval of such bond such franchise shall by the City Council be granted by ordinance to the person, firm or corporation to whom it shall have been struck off, sold or awarded, and in case it shall not be so filed, the award of such franchise shall be set aside and any money deposited in connection with the awarding of the franchise shall be forfeited and the franchise shall, in the discretion of the City Council, be readvertised and again offered for sale in the same manner and under the same restrictions as hereinbefore provided.

SEC. 8. The maximum length of time for which a franchise or privilege to use the streets, highways, or other public places of the City may be granted to any person, firm or corporation shall be thirty-five (35) years.

SEC. 9. Work under any franchise granted in accordance with the terms of this article shall be commenced in good faith within not more than four months from the date of the final passage of the ordinance granting such franchise and if not so commenced within said time, said franchise shall be forfeited. Work under any franchise so granted shall be completed within the time fixed for such completion in the ordinance granting such franchise, which time shall be not more than thirty months from the date of the final passage of the ordinance granting said franchise, and if not so completed within said time, said franchise shall be forfeited; provided, that if good cause be shown, the City Council may by resolution extend the time for completion thereof not exceeding six months.

SEC. 10. The grant of every franchise or privilege shall be subject to the right of the City, whether reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodations of the public, including among other things the right to pass and enforce ordinances to protect the public from danger or inconvenience in the opera-

tion of any work or business authorized by the grant of the franchise and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service and accommodations for the people and insure their comfort and convenience.

SEC. 11. The grant of every franchise or privilege shall be subject to the right of the City, whether reserved or not, to prescribe and regulate the rates, fares, rentals or charges made for the service rendered under such franchise. The grant of every franchise for a street, suburban or interurban railroad shall provide that officials, policemen and firemen of the City shall at all times, while in the actual discharge of their duties, be allowed to ride on the cars of such railroad within the boundaries of the City, without paying therefor and with all the rights of other passengers. Provided, however, the owners of any franchise or privilege or any responsible resident of the City of Hickory may appeal from any ordinance of the City Council prescribing and regulating the rates, fares, rentals or charges to the Corporation Commission of the State of North Carolina by filing with the City Council a written notice of said appeal, not later than ten days after said ordinance becomes effective. The City Council shall thereupon send a copy of the ordinance and a complete certified copy of the record in the entire matter to the Corporation Commission of the State of North Carolina. As soon as practicable after the receipt of said record, the said Corporation Commission shall, and it is hereby authorized and empowered so to do, set a day for the hearing of said matter, giving all parties reasonable notice thereof and a full opportunity to be heard. After a full hearing the Corporation Commission shall decide the question involved, either wholly or partially in favor of either party as may seem just and equitable. Any party shall have the right to appeal from said Corporation Commission to the courts.

All laws of the State of North Carolina that may be in conflict with this section are hereby expressly repealed in so far as they apply to the City of Hickory or to the persons, firms or corporation owning or operating any public utility under the grant of any franchise or privilege by said City.

SEC. 12. Every ordinance granting any franchise shall provide that at the expiration of the period for which the franchise was granted, or at any time before

as stated in the ordinance, the City, at its election and upon the payment of a fair valuation therefor to be made in the manner provided in the ordinance making the grant, may purchase and take over to itself the property and plant of the grantee in its entirety, but in no case shall the value of the franchise of the grantee be considered or taken into account in fixing such valuation.

SEC. 13. Any franchise granted by the City shall not be leased, assigned or otherwise alienated without the express consent of the City, and no dealings with a lessee or an assignee on the part of the City to require the performance of any act or payment of any compensation by the lessee or assignee shall be deemed to operate as such consent; provided, that nothing herein shall be construed to prevent the grantees of such franchise from including it in a mortgage or trust deed executed for the purpose of obtaining money for corporate objects.

SEC. 14. Every grant of any franchise or privilege in, over, under or along any of the streets, highways or public places in the City for railway purposes, shall be subject to the conditions that the person, firm or corporation, exercising or enjoying same shall sprinkle, clean, keep in repair, and pave and repave so much of said street, highway, or other place as may be occupied by said railway as lies between the rails of each railway track, and between the lines of double track, and for a space of two feet outside of said tracks. The City Council shall be the judge as to when and how said sprinkling, cleaning, paving and repairing shall be done and shall determine the kind and amount of material and labor to be used in said sprinkling, cleaning, paving and repairing.

Every grant of any such franchise or privilege shall be subject to the condition that the person, firm or corporation, exercising or enjoying the same, shall permit any one or more interurban or other lines, that at any time may desire to enter Hickory, to use its track for the purpose of reaching and leaving the business square of said City at a reasonable charge to be fixed by the City Council.

SEC. 15. The City of Hickory, by its City Manager or accountants authorized by its City Manager or by the City Council, shall have the right at all reasonable times to examine all the books, vouchers or records of any person, firm or corporation exercising or enjoying any franchise or privilege granted by the City for the purpose of verifying any statements of gross receipts provided for, and for any other purpose whatsoever connected with the

duties or privileges of the City or such person, firm or corporation arising from this Charter or from the ordinance granting the franchise, and may audit the same at the end of each year.

SEC. 16. Every person, firm or corporation operating any business under a franchise granted under this article shall file annually with the City Manager on such date as shall be fixed by the City Council a report for the preceding year.

Such report shall be in writing, verified by the affidavit of such person or persons, or officer of the corporation, as the City Council shall direct, and shall contain a statement, in such form and detail as shall from time to time be prescribed by the City Council of all the gross receipts arising from all the business done by said person, firm or corporation within the City of Hickory for the year immediately preceding such report. Such report shall contain such further statements as may be required by the City Council concerning the character and amount of business done and the amount of receipts and expenses connected therewith, and also the amount expended for new construction, repairs and betterments during such year.

SEC. 17. The stipulated percentage of gross receipts shall be paid annually at the time of filing the annual report. Failure to pay such percentage shall work a forfeiture of the franchise. The provisions as to the payments of gross receipts shall apply to every person, firm or corporation using or operating the works constructed under such franchise.

SEC. 18. Every ordinance granting any franchise or privilege shall provide for the termination and the forfeiture thereof for any breach or failure to comply with any of the terms, limitations or conditions thereof, and in all such cases the City Council shall have power to declare the termination and forfeiture of any such franchise or privilege, the same as though in each instance such power was expressly reserved.

SEC. 19. All franchises and privileges heretofore granted by the City which are not in actual use or enjoyment, or which the grantees thereof have not in good faith commenced to exercise, shall be declared forfeited and invalid, unless such grantees or assigns shall, within six months after this Charter takes effect, in good faith commence the exercise and enjoyment of such privilege or franchise.

ARTICLE VIII.

STREETS AND STREET DEPARTMENT.

SECTION 1. The Street Department of the City of Hickory shall be composed of the City Manager and such other employees as the City Council may deem necessary to execute the duties of the department. The City Manager shall be the executive officer of the department, and shall have the direction of the other officers and employees in the department, subject to the rules and regulations prescribed by the City Council.

SEC. 2. The City Manager shall have full power and authority, under ordinances of the City Council, to grade, pave, macadamize and otherwise permanently improve for travel and drainage any street, sidewalk, avenue and public alley of the City; to put down curbing, cross drains, and crossings on the same; to lay out and open new avenues, streets and public alleys, or widen those already open, and make such improvements thereon as the public convenience may require.

SEC. 3. No property lying within the city limits shall hereafter be platted or laid off into avenues, streets, alleys, blocks and lots or into any of them, unless the same is done in compliance with the provisions hereinafter in this section mentioned or unless otherwise hereinbefore provided.

The owner or owners of any property lying within the city limits shall present to the City Manager for filing a blue print of the proposed avenues, streets, alleys, blocks and lots. Whereupon within five days after the blue print is presented, the City Manager shall determine whether the proposed avenues, streets, alleys, blocks and lots conform to the avenues, streets, alleys, blocks and lots abutting thereon. If found to so conform, he shall forthwith file the blue print in his office, and the owner or owners of said property may after the filing as aforesaid plat and lay off said property in accordance with the blue print so filed.

SEC. 4. That the City Council shall have full power and authority to adopt by ordinance such a system of laying out districts or sections of streets and sidewalks for permanent improvement, and of equalizing the assessment on real estate to pay the cost of such improvement as may be just and proper; and in order to more fully carry out the duties imposed by the provisions of this Charter, for street improvement, the City Council shall have power and authority to determine the kind of such

improvements and the amount to be expended therefor, to pass ordinances assessing the cost of paving, or macadamizing all such streets and sidewalks within any such district or section laid out for improvement on the real estate abutting on the street or sidewalk or portion thereof so paved or macadamized, and it shall be incumbent on the owners of the real estate abutting on each side of the street or sidewalk or part thereof so improved to pay the amount so assessed for such improvement, and such cost and charges shall be a lien on all such abutting property from the commencement of the work, as provided in this Article: Provided that the City Council shall not order such improvement district or section to be laid out until and unless two-thirds of the persons owning the land abutting on such street or sidewalk or public alley, o the portion thereof proposed to be improved, shall request in writing the City Council to order such improvement district or section to be laid out. Provided further, that theCity out of its general funds, shall pay one-third of the cost of grading, curbing and paving and permanently improving the streets except that part required to be paid for by such street railways as is in this charter elsewhere provided; and City shall pay one-half of the cost of grading, curbing and paving and permanently improving the side-walks; and Provided further, that the cost of such improvement shall be financed by the issue of bonds as herein provided.

SEC. 5. That if any street railroad company or other railroad company having tracks running through or across any street or streets laid out as permanent improvement districts or section, it shall be incumbent on such company to pave, re-pave, macadamize or re-macadamize or otherwise improve that part of such street or streets c o v e r e d by its tracks, the space between the double tracks, and at least two feet on each side of each line of track as they are now or may hereafter be constructed by any such company: Provided, that the City Council, in order to secure uniformity in the workmanship and avoid delay in the progress of the work, shall have full power and authority to pave or repave, macadamize or remacadamize, or contrct for paving or repaving, macadamizing or remacadamizing, the whole of said space without giving such street railroad company or other occupant of the street or streets, the option of having said space paved or repaved, macadamized or remacadamized by itself or otherwise, and the cost of

such permanent improvement, properly chargeable to such railroad company, shall be assessed upon the franchise or the property of said railway company located in said City, and special tax levies made thereon for the purpose of collecting same in the manner herein elsewhere provided for the assessment and levy upon other property so improved.

SEC. 6. All companies, corporations and persons having franchises or permits to use the streets of the City for laying railway tracks, pipes or conduits, and for other purposes requiring the excavation of the streets, sidewalks and public alleys, shall be notified by the said Council when any street is to be permanently improved and given a reasonable opportunity to lay said railways, pipes or conduits, or do such work as they may be authorized to do under said franchises, and in case any such company, corporation or persons fail to lay said railway, or pipes, or to do said work before such permanent improvements are made, they shall not be permitted to do so thereafter except under the condition that they shall pay such reasonable proportion of the original cost of such permanent improvement as may be fixed by the City Council.

SEC. 7. That in order to equalize the assessments on real estate for the purposes described, as elsewhere provided in this article, the City Council shall, before the commencement of any such work or improvement, estimate the total cost of such improvement to be made throughout the entire length of such work or improvement, and then shall pro rate the cost thereof on the real estate abutting thereon in proportion to the frontage on the street or portion of the street so improved, and charge to and assess upon each side of the street upon which said work is done its pro rata share of the cost of all such improvements as may be made under the provisions of this article: Provided, however, in order to avoid obstructing lot owners in subdividing and selling their property by reason of the liens hereby created upon the same, such lot owners may subdivide their lots in such manner as they see fit, subject to the provisions of Section 3 of this article, and shall file in the office of the City Manager a plat of the subdivision, making the lots fronting on the streets so paved or improved of any desired frontage, but not less than one hundred feet in depth, and the assessment made and the liens created by virtue of this act for street improvement shall thereafter affect and at-

tach to such front lots only, not less than one hundred feet in depth, and where in any such cases lands fronting on such improvements are so subdivided into lots, each of said lots fronting on such improvements shall be and remain chargeable with its ratable proportion of said assessment and liens according to its frontage; that the City Council shall cause to be established a permanent grade on any such street, sidewalk or public alley so improved, and shall cause any such street, sidewalk or public alley to be accurately surveyed, and a map to be made of the various lots and properties abutting on such street, sidewalk or alley, or portion thereof so proposed to be improved, showing the exact frontage of each lot, and also the sub divisions, if any, and the said map shall be filed with the City Manager and be subject to public inspection; and when the assessments and liens, as provided for in this article, shall have been made upon the various lots and properties on the streets, sidewalks or alleys, the City Manager shall write upon said map the amount assessed upon the same, and he shall keep a properly indexed record book showing such assessments and liens, and the date and amount of all payments made on any of the said assessments and liens; Provided, further, where permanent street improvements shall be made, the property bearing such assessments shall not be assessed again until after the expiration of ten years from the date of the last preceding assessment: Provided, further, that in case any street or part of a street laid out as a district for permanent improvement is of such unequal width or cost of material as to render the plan of equalization of assessments as above set out, unjust to any abutting property, then in that case, the City Council is authorized to divide such district into subdivisions and to apply the rule of equalization of assessments prescribed herein to such subsections, instead of to the entire district or section; and the City Council may make as many subsections as may be necessary to make a just distribution of the cost of permanent improvement made or to be made in such district. The cost of all such improvements shall be financed by the issue of bonds and the levy of a special tax to pay the same and the interest thereon, as hereinafter provided.

SEC. 8. That the notice of the assessment by the City Conucil, as herein elsewhere provided in this article, against abutting property on any street, sidewalk, or public alley in any such improvement district or section

shall be given at least once a week for two weeks in some newspaper published in the City of Hickory, which notice shall state the time and place that such assessments are to be made and determined;and shall notify all persons interested in such assessment to appear and show cause, if any, why such assessment shall not be made; and in the event the owner of such lot or lots is an infant, idiot, lunatic, or incempetent, then his general guardian, if he has such, shall act for him; if he has none, it shall be th duty of the Clerk of the Superior Court of Catawba County to appoint a guardian ad litem to act for him. That any person who shall feel aggrieved by the findings of said Council, with reference to said assessment for such permanent improvements, shall have the right within ten days after such findings of said Council, and not after that time, to file his objections to such findings, and to appeal from the decision of said Council to the next term of the Superior Court of Catawba County, by serving upon said City notice in writing of his intentions so to do, and specifying in said notice the grounds of his objections to said findings and by filing within the time prescribed for taking appeals in the office of the Clerk of the Superior Court of Catawba County, a written undertaking in at least the sum of two hundred dollars, with sufficient surety to be justified before and approved by said Clerk to the effect that said appellant will pay to said City all such costs and damages as it may sustain by reason of said appeal; in such cases of appeal from the City Council, the ordinance laying out the improved district, the action of the said Council in determining the assessment, the objections of the property owner filed thereto, and all other papers material to the matter shall constitute the case on appeal and be certified by the City Manager to the Superior Court, and shall be docketed on the civil docket and stand at issue as other civil cases regularly brought in such court, with leave to either party to file such pleadings and papers as he may deem necessary; if all the issues be found in favor of the appellant on such appeal, as above provided for, the lien for said assessments shall be discharged; if, however, the issue, or any of them, be found in favor of the City of Hickory, to any amount, then judgment shall be rendered in favor of said City for such amount, to the end that no merely technical objections shall defeat the rights of the City; and the amounts so found together with the cost of such appeal, which cost shall be assessed as costs in other civil

actions, shall be and continue a lien against the property upon which the original assessment was placed, from the date of the findings of said City Council, and shall be collected by the City Manager of the City of Hickory, as elsewhere in this article provided.

SEC. 9. That in lieu of notice of publication to property owners affected by improvements to abutting real property as elsewhere provided in this article, the City Council, if it so determines, may give ten days' personal notice to all persons affected by any permanent improvements for which a charge is to be made on real estate, to appear before said City Council at a certain time and place to show cause, if any, why such assessment should not be made, which notice may be served by any policeman of the City of Hickory, or any other proper officer.

SEC. 10. This article shall be construed to make it mandatory on the City Council to require abutting property owners to pay their pro rata share of the cost of macadam, bithulithic, asphalt, vitrified brick, sand clay, top soil and other permanent pavements assessed against the abutting property, as elsewhere provided for in this article: Provided, further, that nothing in this article shall be construed to make it mandatory on the City Council to issue bonds to finance the construction of sidewalks, but said City Council may require the construction of sidewalks and charge one-half the cost of same, including curbing, to the abutting property, the property on each side of the street pay or bear one-half the cost of the sidewalk on its respective side, which cost shall be a lien on the abutting property, as herein elsewhere provided, and paid immediately, or as soon thereafter as practicable, by the property owners, and not by an issue of bonds as is elsewhere provided, if the City Council so determine, and such charge or assessment shall be enforced and collected by the City Manager by the sale of the abutting property specially benefitted in the same manner as real estate is sold for taxes.

SEC. 11. As soon as the amount chargeable to real estate abutting on the street, avenue or public alley to be so improved, as is provided in other sections of this article, is finally determined by the City Council, and after the contract is let for any such work or improvement, the City Council may cause a notice to be published once a week for two weeks in some newspaper published in the City of Hickory, substantially in the following form:

"STREET IMPROVEMENT NOTICE."

"Notice is hereby given that a contract has been let for (describing work and street, sidewalk or alley), and that the improvement chargeable to the abutting real estate has been determined as to each parcel of said real estate, and a statement of the same is on file with the City Manager. It is proposed to issue bonds chargeable to the said real estate to pay the special assessments, and such bonds will be issued covering all of said assessments except in cases where the owners of property file with the City Manager, within the time stipulated in said notice, a written notice that they elect to pay the special assessments on their property, describing the same."

SEC. 12. After the expiration of the time fixed for filing notice of election to pay the special assessment as provided in the preceding section, the City Council may issue improvement bonds covering all of the assessments, except such as the owners have filed notice of election to pay, as stated in the preceding section, which bonds shall be of corresponding amounts and known as "Street Improvement Bonds"; shall comprise ten equal series; each series shall consist of a like number of bonds, and shall bear interest not to exceed six per cent. per annum; and shall be sold for not less than par; and shall be signed by the City Council and attested by the City Manager; and shall contain such recitals as may be necessary to show that they are chargeable to particular property; and may be sold at either public or private sale; and the interest upon the said bonds shall be payable semi-annually, and each installment of interest shall be represented by corresponding coupons; the respective series of the said bonds shall be payable annually, and the last series thereof shall be payable not exceeding ten years from the date of their issue; the proceeds collected by the City Treasurer shall be paid to the contractor when due him, or the contract may provide that the contractor shall take bonds as payment on his contract, at not less than their par value, the contractor to be charged with accrued interest; at the date of each tax levy after the issuance of any such bonds until all of them are paid, when the tax roll or levy for the year is prepared, sufficient special assessments of taxes on each parcel of land covered by said bonds to pay the annual instalment of the principal and interest on the amount of such special assessments then unpaid, shall be included in the tax levy or roll, as a special tax on said property, and thereafter this tax shall be treated in all

respects as any other city tax, to be collected in the same manner and constitute a lien on the property affected, and in every respect the same as other taxes. The provisions of sub-section (m) of Section thirteen of Article IV shall not apply to the issuance of bonds in accordance with the provisions of this section.

SEC. 13. That all funds derived from assessments hereafter levied by the City Council of the City of Hickory upon private property on account of the improvement of the streets upon which such property abuts shall when collected and received by the City of Hickory, constitute a special fund, to be designated as "Street Improvement Fund," and the same shall be kept separate from all other funds of the City, and a separate record thereof shall be kept by the City Manager and said funds and every part thereof shall be applied by the City Council, exclusively, to the payment of the said bonds and interest on same or payment of said work.

SEC. 14. The City Council shall have power to control, grade, macadamize, cleanse, and pave and repair the streets and sidewalks of the City and make such improvements thereon as it may deem best for the public good, and may provide for and regulate lighting of the public parks and streets, and regulate, control, license, prohibit and prevent digging in said streets and sidewalks, or placing therein of pipes, poles, wires, fixtures, and appliances of every kind, whether on, above or below the surface thereof, and regulate and control the use thereof, remove obstructions, encroachments, pollution or litter therein, and shall have under their government, management and control all parks and squares within or without the city limits established now or hereafter to be established by the City Council for the use of the City.

SEC. 15. The City Council shall have power to prohibit cellars or entrances to cellars under the sidewalks of the city, or any obstruction upon the streets or sidewalks thereof.

SEC. 16. When any land or right of way shall be required for the purpose of opening new streets, or widening or changing those already opened, or other subjects allowed by this charter, and the compensation therefor can not be agreed upon by the owner or owners and the City Council, the same may be condemned and taken by the City Council at a valuation to be made by three disinterested freeholders of the City, one of whom shall be chosen by the City Council and one by the owner or owners and in case these two do not agree, then the two thus chosen shall select a third, and in case the owner or own-

ers, or any of them, fail or refuse to choose a freeholder, as above provided, for five days after being notified so to do, then it shall be the duty of the City Council to appoint a disinterested freeholder to act on the part of said owner or owners. In case the two first chosen shall fail or refuse to choose a third freeholder, then it shall be the duty of the City Council to choose or select the third freeholder. In making the valuation, said freeholders, after giving the owner or owners or their agent notice, or giving a notice by publication in two issues of a weekly newspaper published in the City of Hickory in case the owner can not be found in the city, and after being duly sworn to act impartially and fairly, shall take into consideration the loss or damage which may accrue to the owner or owners in consequence of the land or right of way being surrendered, also such benefit or advantage such owner or owners may receive from the opening, widening or changing of such streets or other public improvements, and ascertain the sum, if any, which shall be paid to the owner or owners of said property, and report the same, in writing over the signature of any two of them, to the City Council, which report on being confirmed by the council and spread upon its minutes, shall have the effect of a judgment against the City of Hickory, and shall pass title of the land so taken to the City of Hickory, and the land so taken may at once be used by the City for the purposes intended: Provided, that if either the owner or owners whose land is taken or the City Council shall be dissatisfied with the valuation thus made, either party may appeal to the next term of the Superior Court: Provided, however, that such appeal shall not hinder or delay the City Council in opening or changing such street or making such improvement.

SEC. 17. Every male resident in said City between the ages of eighteen and forty-five shall be liable to work the streets and public places of the City under the direction of the City Manager not more than four days each year, unless he shall obtain from the City Manager a certificate of exemption therefrom, for which he shall pay such sum as may be annually fixed by the City Council, not exceeding two dollars.

ARTICLE IX.

POLICE POWERS AND POLICE DEPARTMENT.

SECTION 1. The City of Hickory shall have power, by ordinance duly passed, to establish and maintain the City police department, prescribe the duties of policemen

and regulate their conduct.

(a) To permit, forbid or regulate theatres, balls, dance houses, moving picture shows, circuses and other public amusements, and to suppress the same whenever the preservation of order, tranquility, public safety or good morals may demand .

(b) To suppress gambling houses and to punish keepers and patrons thereof, to punish all persons who play cards or games of chance of any kind for gain, and to punish persons who sell lottery tickets or who advertise lottery drawings or schemes and results of drawings of lottery.

(c) To regulate, control, and prohibit the keeping and management of houses or any building used for the storage of gun powder and other combustible, explosive or dangerous materials within the City, and to regulate the keeping and conveying of the same, and to authorize and regulate the laying of pipes and the location and construction of houses, tanks, reservoirs, and pumping stations for the storage of oil and gas.

(d) To define nuisances and prevent and abate the same whether on public or private property, and to abate such nuisances by summary proceedings, and to punish the authors or keepers thereof by penalties, fines and imprisonment.

(e) To regulate, restrain and prohibit the running or going at large of horses, mules, cattle, sheep, swine, goats, chickens and all other animals and fowl of whatever description, and to authorize the distraining and impounding and sale of the same for the costs of the proceedings and the penalty incurred, and to order their destruction when they can not be sold, and to impose penalties on the owners or keepers thereof for the violation of any ordinance or regulation of said City Council, and to prevent, regulate and control the driving of cattle, horses and all other animals into or through the streets of the City.

(f) To establish maximum rates for all kinds of transportation within the city limits and to prevent extortion; to regulate and to prohibit the blowing of whistles of railroad engines or locomotives within the city limits, and to regulate the speed of railroad engines and locomotives within said limits; to perserve order and prevent noise and confusion in or about the depot on arrival and departure of trains, and to provide how and where hacks or other carriers shall stand or take their position

upon the streets or adjacent or near to said depot; and to provide and fix by ordinance public stands where hacks and drays, baggage wagons or other public carriers shall stand on the streets for the purpose of soliciting business, and to prescribe that they shall not stand, excepting when discharging or receiving passengers or freight, at any points other than those designated in the ordinance as public stands.

(g) To restrain and prohibit the ringing of bells or blowing of horns, bugles and whistles, crying of goods or other noises, practices or performances tending to the collection of persons on the streets or sidewalks, by auctioneers and others, for the purpose of business, amusement or otherwise, except judicial sales, sales for taxes and the like; to prohibit beggars, mendicants or persons of infirm or maimed bodies or suffering with diseases of any kind from soliciting alms, help or assistance upon the streets or sidewalks of the city, and to prescribe a penalty by fine for non-observance thereof; to regulate the use of automobiles, motor cars, motorcycles or any other motor vehicles and the speed thereof, to prescribe the proper lighting of same, when used at night, and to prescribe the qualifications required of those using same upon the streets of the City and to issue permits for the use of such vehicles.

(h) To prevent all boxing matches, sparring exhibitions and punish all persons engaging therein; to prevent cockfighting and dog fighting, and to punish all persons instigating or encouraging same.

(i) To prohibt and punish the abuse of animals.

(j) To license, tax and regulate trades, occupations and professions.

(k) To prohibit bawdy houses and punish keepers, inmates and patrons thereof, and owners of buildings used for immoral purposes; to prohibit variety shows and to punish participation therein; to prohibit, prevent and suppress assignation houses and houses of ill fame, to determine such inmates and keepers to be vagrants, and to provide for the punishment of such persons.

(*l*) To require, on due notice, all steam or street railway companies owning tracks within the City limits, upon public streets or highways of said City, which have been or may hereafter be abandoned by said companies by nonuse, to remove such tracks and to restore at their expense the street or way upon which abandoned track is located to its former condition.

(m) To control and regulate the location and use of all kinds of steam engines and steam boilers in the City, and prescribe the qualifications of persons operating and running same, and to adopt such rules and regulations in relation thereto as may seem best for the public safety and comfort.

(n) To direct, control and prohibit the laying of railroad tracks, turn outs and switches in the streets, avenues and alleys of the City unless the same shall have been authorized by ordinance, and to require that all railroads, turn outs and switches shall be so constructed as not to interfere with the drainage of the City and with the ordinary travel and use of the streets, avenues and alleys in said City, and to construct and keep in repair suitable crossings and gates at the intersection of streets avenues and alleys and suitable ditches, sewer and culverts, where the City Council shall deem it necessary.

(o) To make such rules and regulations in relation to butchers, bakers and dairymen as they may deem nec essary and proper, to establish and erect markets and market houses, and designate, control and regulate market places and houses, dairies and bakeries, whether kept within or without the City limits, from which meat, bread, or milk is offered for sale within the City limits, and to punish the owners or keepers thereof for the violation of any ordinance or regulation of the City Council, by penalties, fines and imprisonment.

(p) To prohibit and punish by fine the wilful introduction into the City by railroads or other carriers of paupers or persons afflicted with contagious diseases.

(q) To license, tax, regulate, control, restrict and prohibit the use of and explosion of dynamite, fire crackers or other explosives or fire works of any and every kind, whether included in the above enumeration or not, and the sale of same, and all noises, amusements or other practices or performances tending to annoy persons or frighten persons or teams, and the collection of persons on the streets or sidewalks or other public places in the City, whether for purposes of amusement, business, curiosity or otherwise.

(ee) To inspect the construction of all buildings in the City, and prescribe and enforce proper regulations in regard thereto, and regulate and locate or prohibit the erection of all poles in the City, and cause the same to be changed.

SEC. 2. The police department of the City shall be com-

posed of the Chief of Police and as many officers and patrolmen as shall be from time to time provided by ordinance of the City Council.

SEC. 3. The Chief of Police, acting under the City Manager, shall be responsible for the discipline and efficiency of the police force. All orders shall pass through him, except so far as the rules, regulations and orders of the City Council authorize orders to be given direct to any subordinate on the police force. In addition to the power of dismissal vested in the chief, any member of the force, including the chief, may be removed,suspended or fined by the City Manager upon proper cause shown, and in cases where a fine is imposed, it may in the discretion of the City Manager be deducted from the officer's pay, and a person may be appointed by the City Manager to discharge the duties of such suspended officer or member until the grounds of such suspension can be inquired into by the City Council; and it shall be the duty of the City Manager to report in writing the dismissal, suspension or fine within three days, with the reasons therefor, to the City Council, and also furnish such dismissed, suspended or fined officer or member with a copy thereof within like time. Whereupon the City Council shall hear and determine any and all charges against the officer or member of the police force.

SEC. 4 In case of emergency the City Manager shall have power to appoint additional officers and patrolmen for temporary service, but the length of time for which such additional officers or patrolmen shall be employed shall be limited to the time during which such emergency may exist.

SEC. 5. The police force shall preserve the peace, protect persons and property, obey and strive to enforce so far as it has power, all the ordinances of the City and all criminal laws of the State and the United States; and each member thereof shall wear a badge and uniform while on duty, so that the people may recognize him as a peace officer: Provided, the City Council may provide for special ununiformed officer or officers.

SEC. 6.. The Chief of Police and each member of the police force shall have power and authority to preserve the peace within the City. They shall execute all process directed to them by the Municipal Judge of the City and all civil and criminal process directed to them by a justice of the peace or other lawful officer in said jurisdiction.

SEC. 7. The Chief of Police shall give bond in such sum as the City Council shall prescribe for the faithful discharge of the duties of his office and for a faithful account of all moneys that may come into his hands by virtue of his office. It shall be his duty to attend the Municipal Court each day and report any violation of law or ordinance of the City; to collect all fines and penalties imposed and pay the same to the Clerk of the Municipal Court; to execute the process and judgments of said court, and to perform such other duties as may be required of him by law and by the rules and regulations of the City Council or City Manager.

SEC. 8. The salary of the Chief of Police and the compensation of the other officers and patrolmen of the Police Department shall be fixed by the City Council, and they shall receive no other compensation for their services. All fees now and heretofore prescribed to be taxed as their costs shall be paid to the Clerk of the Municipal Court.

ARTICLE X.

HEALTH AND HEALTH DEPARTMENT.

SECTION 1. The City of Hickory shall have power, by ordinance duly passed, to regulate burial grounds, crematories and cemeteries, and to prohibit burial within the City limits, if deemed advisable or if found necessary to protect the public health. The City of Hickory shall have power to acquire land and grounds inside or outside ef the City limits, by purchase, gift or otherwise, to be devoted and used for the purpose of a public and private cemetery. and to pass such suitable regulations concerning the burial of the dead in such cemetery and make such suitable regulations for the private sale of lots therein as may be deemed proper by the City Council; and the said City shall have power to appropriate private property lying within or without the City limits to be used and devoted for cemetery purposes, as herein stated, by condemnation proceedings brought for such purpose, and in all such cases the proceedings had to condemn shall conform to provisions hereinbefore contained for condemnation of land for streets in Article VIII, Sec. 16.

SEC. 2. The said City shall also have power, by ordinance duly passed, to condemn as nuisances all buildings, cisterns, wells, privies and other erections in the City which on inspection shall be found to be unhealthy, unsanitary or dangerous to persons or property, and

cause the same to be abated or removed, at the expense of the owner, unless the owner thereof, at his or her own expense, upon notice and with the sanction and authority of the City Council, shall reconstruct the same in such a manner as shall be prescribed by the laws of the City; and as to all buildings, cisterns, wells, privies and other private improvements to be constructed in future, they shall have the power and it shall be their duty to have the same so constructed as not to interfere with the health of persons or the safety of persons or property within the City.

SEC. 3. The City of Hickory shall have the right and power by ordinance to provide that the tenant or owner of any property shall pay to the City reasonable charges for the removal of night soil or other refuse matter from the closets or the premises thereof, and to prohibit anyone, except some one in the employ of the City or by the City authorized to do so, from removing or carrying away the contents of any privy, vault or water closet or any receptacle of human excrement; and the City shall have the right to have inspected the premises of all persons, at any hour during the day time, in the interest of public health; and for the purpose of making such inspection the officers or agents of the City duly authorized to do so shall have the right to enter upon the premises of any person at any hour during the day time to make said inspection. Whenever notice is given by any officer or employee of the City inspecting any premises that said premises need cleaning, the said night soil or other refuse matter shall be removed and the owner or tenant of said premises shall pay to the City the price prescribed therefor, and failure to do so shall subject said persons to the penalties to be prescribed by ordinance, and said persons shall be fined upon conviction in the municipal court, in any sum not less than one dollar nor more than two hundred dollars.

SEC. 4. The City Council may require all owners, tenants and occupants of improved property which may be located upon or near any street or alley along which may extend any sewer or system of sewerage that the City may own, construct or control, or that it may acquire by purchase or otherwise, to connect with such sewer or system of sewerage all water closets, sinks or drains located upon their respective property or premises, so that their contents may be made to empty into such sewer or system of sewerage: Provided, that when-

ever any tenant or occupant shall be required under any ordinance of the City to make sewer connections or do any other thing, the performance of which the City Council has the power to compel, such tenant or occupant shall have a lien upon the property for reimbursement, if the primary obligation to do the same was on the landlord, said lien to be enforced by competent proceedings in any court of competent jurisdiction; and the tenant or occupant may, when so entitled, under the general principles of set-off, use such claim against his liability for rent.

SEC. 5. The City Council shall have power to establish, lease, buy, erect, maintain, own and regulate and operate markets and market places, abattoirs and to build, own and maintain buildings therefor, and to rent and lease the same.

SEC. 6. *(a)* The City Council shall have power to regulate, license or prohibit butchers and prevent their slaughtering animals within the city limits, and to revoke their license for malconduct in trade, and to regulate and license the sale of fresh meats, fruits and vegetables, and the slaughter of animals, and to license and regulate or prohibit slaughterhouses or the slaughter of animals within the City limits.

(b) To provide for the inspection of dairies and creameries inside and outside of the City limits and doing business within the City and to charge and provide license fees for said inspection; to establish and maintain a standard of sanitary conditions governing dairies and creameries inside and outside of the City, doing business within the City; to establish and maintain a standard of quality of all dairy products sold in the City, and to provide for penalties for the violation thereof.

(c) To compel the owner or occupant of any grocery, soap, tallow, or candle establishment, or blacksmith shop, tannery, stable, slaughterhouse or other building, or sewer, privy, hidehouse or other unwholesome or nauseous place or house, to cleanse, remove, fill up, repair or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

(d) To make regulations to prevent the introduction of contagious diseases into the City, to make quarantine laws for that purpose, and to enforce them within the City and within one mile thereof.

(e) To authorize the destroying of clothing, bedding, furniture and buildings infected with the germ of

any infectious and dangerous disease, when the public health requires the destruction of the same, and may also, by ordinance duly passed, authorize the destruction or removal of buildings or other objects, after the same shall have been declared a nuisance and to be dangerous to the health or lives of the citizens of the City.

(f) To prevent any person from bringing, depositing or having within the City limits the carcasses of any dead animals or other unwholesome substance or matter of filth of any kind, and to require prompt removal of the same and impose all necessary penalties for the enforcement of such powers.

(g) To regulate the burial of the dead, the registration of births and deaths, direct the keeping and returning of bills of mortality, and impose penalties on physicians, undertakers, sextons and others for any default in the premises.

SEC. 7. The City of Hickory shall have power, by ordinance duly passed, and it shall be its duty, to establish and maintain the City Health Department, to be composed of the City Physician, to be appointed by the City Council for a term of two years; a sanitary officer, who may also be a police officer, and such other employees as the City Council may deem necessary. The City Physician shall present a list of names for the subordinate positions in the Health Department, and the City Council shall select aforementioned subordinate officers from this list.

SEC. 8. The City Physician shall be the chief health officer of the City and the sanitary officer and other employees, if any, of the department shall obey his orders and instructions. It shall be his duty from time to time to present in writing to City Council proposed health ordinances, which the City Council may adopt or reject but can not amend.

SEC. 9. The City Physician, the sanitary officer, or other officer designated by the City Council for this purpose, shall have power to remove, abate or remedy, or cause to be removed, abated or remedied, everything within the City limits, or within a mile of said limits, which is dangerous or prejudicial to the public health; and the expense of such action shall be paid by the person in default, and if not paid shall be a lien upon the land or premises where the trouble arose, and shall be collected as unpaid taxes.

SEC. 10. It is hereby declared a misdemeanor for any person to sell or offer for sale in the City any un-

sound articles for food, and any person convicted of any violation of this section shall be fined or imprisoned in the discretion of the court.

ARTICLE XI.

FIRES AND FIRE DEPARTMENT.

SECTION 1. The City Council shall have power to provide for the organization, equipment, maintenance and government of fire companies and a fire department; and in its discretion, may provide for a paid fire department, and for this purpose may create such offices and employees with such compensation as to the council may seem right and proper: Provided, the organization and government of fire companies or fire department shall not be inconsistent with the provisions of this article.

SEC. 2. The Chief of the Fire Department shall be the executive officer of the department or companies, under the direction of the City Manager, and shall have direct control of the other officers, firemen and employees in the department or companies, under such rules as may be adopted by the City Council.

SEC. 3. The Chief of the Fire Department and his assistants shall have full police powers while on duty during fires, and are authorized to make arrests without warrant for interference with or obstruction to their operation.

SEC. 4. In the event of an alarm of fire the apparatus of the fire department or companies shall have the exclusive right of way in and upon streets, alleys, squares and railroad crossings in going to any fire, and while going to a fire, as well as at a fire, it shall be unlawful for any person whatsoever to interfere with the firemen or their apparatus or appliances in any way, and the City Council shall, by proper ordinances, provide for the punishment of any person so interfering.

SEC. 5. The City Manager and Chief of the Fire Department shall have the same power and authority in reference to the dismissal, suspension or fining any officer or member of the fire department or companies as that provided to be exercised by the City Manager and Chief of Police in reference to the officers or members of the police department.

SEC. 6. The City Council may establish and maintain fire limits in the City, in which it shall be unlawful to erect, alter and repair wooden buildings or structures or additions thereto; it may also prohibit the removal of buildings or additions or structures of any kind into said

limits, or from one place to another within the limits, and make such other regulations as may be deemed best for the prevention and extinguishment of fires.

SEC. 7. The City Council may make rules and regulations governing the erection and construction of buildings in the City so as to make them as safe as possible from fire; and in case of fire the Mayor, or a member of the City Council, the City Manager and the acting Chief of the Fire Department, or the acting Chief of the Fire Department and any two of the other officers named may order the blowing up, tearing down, or destruction in any other way that may seem best, of any building, when it is deemed necessary to stop the progress of the fire; and no individual shall be held liable, civilly or criminally, for acting in obedience to the orders thus given.

ARTICLE XII.

WATER WORKS AND SEWERAGE DEPARTMENT.

SECTION 1. The Water Works and Sewerage Department shall embrace all property, rights, and obligations of the City of Hickory in respect to water works and sewerage, and shall in so far as practicable, be administered as an entity. To that end all contracts, records and muniments of title pertaining thereto shall be assembled and carefully preserved, and accounts shall be kept of its assets, liabilities, receipts and disbursements, separate and distinct from the accounts of any other department or branch of the City Government.

SEC. 2. The Water Works and Sewerage Department of the City of Hickory shall be composed of the City Manager and such other officers and employees as the City Council may deem necessary to execute the duties of the department. The City Manager shall be the executive officer of the department, and shall have the direction of other officers and employees, subject to the rules and regulations prescribed by the City Council.

SEC. 3. The City Council shall have the power to acquire and hold, in the name of the City, rights of way, water rights, sewerage outlets, and other property within and without the City limits, and the City Council shall have power to condemn and take rights of way, easements, water rights, sewerage outlets and other property within and without the corporate limits of the City for the purpose of extending, getting, storing, maintaining and furnishing a pure and adequate water supply, and of extending, maintaining and furnishing an adequate system of sewerage and of securing proper and adequate out-

let or outlets therefor. The proceedings in said condemnation shall be the same as are herein provided for the condemnation of land for street purposes.

SEC- 4. The City Manager shall have, under ordinances of the City Council, entire supervision and control of the maintenance, improvement and management of the said system, and shall fix such uniform rates for water and sewerage as he may deem advisable and just, and shall fix the time or times when said water and sewerage rents shall become due and payable.

SEC. 5 When any water or sewerage connections are discontinued by any officer or agent of the City in accordance with the provisions of an ordinance, it shall be unlawful for any person, firm or corporation, other than the City Council, or its agents or employees, to make said connections or to use the same, without having first obtained permission from the City Manager or some officer of this department.

SEC. 6. The City Council shall out of any money received by it from the operation of the water works and sewerage system pay, first the operating expenses of said systems; second, the interest upon such of the bonds of the City of Hickory as were sold for the purpose of raising money to erect, construct, and enlarge said system, and the balance remaining, shall be invested by the City Council, and shall remain and be known as a sinking fund to meet the payment of said bonds at their maturity.

SEC. 7. That the City Physician shall devote such time as may be necessary to the inspection of the public water-shed and examinations of the public water supply, and make his reports of the same to the City Council.

SEC. 8. If any person or persons shall maliciously or wilfully divert the water or any portion thereof from the said water works, or shall corrupt or render the same impure, or shall injure or destroy or obstruct any canal, aqueduct, pipe, or other property used or acquired for the proper operation of said systems, or either of them, said person shall be guilty of a misdemeanor and upon conviction, shall be fined not exceeding five hundred dollars, or shall be imprisoned not exceeding one year, at the discretion of the court.

SEC. 9. The City Council shall have full power and authority to apply by ordinance the provisions of Sec. 4 to Section 13 inclusive of Article VIII, to the extension of the Water Works and Sewerage Systems of the City of Hickory. An ordinance applying said sections to said systems

shall, for any and all intents and purposes, have the same effect as if said sections were herein set forth.

ARTICLE XIII.

FINANCE AND TAXATION.

SECTION 1. No contract shall ever be made which binds the City to pay for personal service to be rendered for any stated period of time, but all contracts involving personal service shall be restricted to the doing of some particular act or thing, and upon its completion no further liability shall exist on the part of the City, nor shall the City of Hickory, or any one acting for it, make any contract for supplies for current use for any department of the City for a longer period of time than twelve months, and so far as practicable all supplies purchased for the use of any or all the departments of said City shall be made or let upon competing prices therefor.

SEC. 2 No contract shall be given until after an appropriation has been made therefor, nor in excess of the amount appropriated, and all contracts whenever practicable shall be upon specification and no contract shall be binding upon the City unless it has been signed by the City Manager and by a member of the City Council, who shall have been duly authorized to sign the said contract by an ordinance adopted at a regular meeting of the City Council, and the expense thereof charged to the proper appropriation. Whenever the contracts charged against any appropriation equals the amount of said appropriation no further contract shall be signed.

SEC. 3. All tentative or proposed contracts of whatever character pertaining to public improvements or the maintenance of public property of said City involving an outlay of as much as two hundred dollars, shall be submitted upon specifications to be prepared and submitted to and approved by the City Council, and after such approval advertisement for the proposed work or matters embraced in said proposed contract shall be made inviting competitive bids for the work proposed to be done, which said advertisement shall appear at least twice in some weekly newspaper or at least five times in a daily newspaper published in the City of Hickory. All bids submitted shall be sealed, shall be opened by the Mayor in the presence of the City Council in a meeting assembled and shall remain on file in the City Manager's office and be open for public inspection for at least forty-eight hours before any award of said work is made to any competitive bidder. The City Council shall determine the most ad-

vantageous bid for the City and shall enter into a contract with the parties submitting the same. However, the City Council shall always in every advertisement of public work or contract involving as much as two hundred dollars reserve the right to reject any and all bids. Pending the advertisement of work or contract proposed, specifications therefor shall be on file in the office of the City Manager subject to the inspection of all parties desiring to bid: Provided, this section shall not be construed to prohibit the City Council from having work done by day labor, from purchasing materials in accordance with the other provisions of thisCharter and under such rules and regulations as said Council may by ordinance prescribe: And Provided, further, this section shall not be construed to apply to contracts for lighting the streets and public buildings of the city.

SEC. 4. The City Manager shall be the purchasing agent of the City Council, and all property, supplies, and material of every kind whatsoever, shall, upon the order of the City Council, be purchased by him, and when so purchased, the bills therefor shall be submitted to and approved by the City Council before the same are paid.

SEC. 5. The City Council shall, during the month of May of each year, or as soon thereafter as is practicable, make a careful estimate of the probable revenues of the City, for the next fiscal year and apportion the same together with any surplus left over to the general fund from the preceding year, as herein provided, to the several departments of the City Government, reserving from said estimate not more than ten per cent. and not less than seven per cent. of the total amount of the revenue estimated, as above provided, to be used in case of emergencies. Any unexpended portion of said reserved fund created for any fiscal year shall constitute a part of such roserve fund for the ensuing year. Such estimate or budget shall be prepared in such detail as the said Council shall deem advisable, and in order to enable the said council to properly make the apportionment hereinbefore required, the City Manager and the heads of each department of the City shall, at least ten days before said apportionment is made, furnish in writing to said council, estimates in detail of the amounts needed. The estimates in detail furnished by the City Manager shall be of the amounts needed for the entire City Government and those furnished by the heads of the department of the amounts needed for their respective departments. All of which

estimates shall be considered by the City Council in determining the amount apportioned to each department of the City.

Any apportionment made by the City Council to any department of the City may at any time be increased or reduced, or may be diverted from one department to another by a majority vote of the City Council. If at the end of the fiscal year any surplus remains to any department of the City for which an apportionment was made, the same shall be credited to the general funds of the City, and shall form part of the general funds for the next ensuing fiscal year. That at the end of each month during the fiscal year each of the heads of the various departments of the City shall file with the City Manager an itemized report of all moneys received and disbursed by his department, and showing for what and to whom such money was paid and for what and from whom received.

The City Manager, at the first of each month during the fiscal year, shall file with the City Council an itemized report of all moneys received and disbursed by any and all officers of the City Government during the preceding month, and showing from whom and for what such money was received and to whom and for what paid. To the said report shall be attached the monthly reports of each of the heads of the various departments of the City. The City Manager's report for the preceding month shall be published during the second week of each month in some newspaper published in the City of Hickory.

SEC. 6. That at their first meeting in May of each and every year, or as soon thereafter as is practicable, the City Council shall, by ballot, elect a City Treasurer, who must be a person other than the City Manager and who shall receive a sum not exceeding one-third of one per cent. of the amount of funds paid into his office.

SEC. 7. The City Treasurer shall give bond, in some bonding company, in such sum and form, and with such conditions as may be required by the City Council, the amount of said bond shall not be less than $7,500.00, and the same to be approved by the City Council, said bond to be paid for out of the regular expense funds of the City. It shall be his duty to call on all persons having in their hands any moneys or securities belonging to the City which ought to be paid and delivered into its treasury, to surrender the same to him, and to receive and safely keep and pay out the same only on warrants, signed by the

City Manager and countersigned by some other person to be designated by the City Council. All moneys belonging to said City and received by any officer or agent thereof from any source whatsoever, shall, unless otherwise herein directed, be by him turned over to said Treasurer, as hereinafter provided, for which the Treasurer shall give a receipt to the party so paying. Said Treasurer shall keep in books provided for that purpose, a full and correct account of all moneys received and disbursed by him and shall render a statement of his receipts and disbursements to the City Council at the first of each month, and at such other times as may be required of him by said council. The City Council shall have the right to require a new bond whenever, in their opinion, the existing bond is insufficient, and whenever such new bond is required he shall do no official act until said bond shall be given and approved in the manner aforesaid. The City Council may, in their discretion, select one or more banks in the City as depository banks for the City of Hickory, and should such bank or banks be so selected as above provided it shall then be the duty of said treasurer to make daily deposits of such sums and moneys as shall be received by him from all sources whatsoever to his credit as Treasurer in one or more of said banks and such depository banks or bank, before any such deposit is made therein, may be required to enter into an obligation with the said City Council to pay into the Treasurer of said City interest at a rate to be fixed by said City Council, not exceeding legal rate of interest in North Carolina, which shall be paid at the end of each month and shall be based on the daily average balances for the month; provided, the rate of interest to be paid by said bank or banks may at any time be changed by the City Council but never to exceed legal rate. The said bank or banks may, in the discretion of the City Council, be required also to execute a good and sufficient bond with sureties to be approved by the City Council, and conditioned that such bank or banks will safely keep and account for and pay over said money on demand and as ordered by the City Council. All interest paid by any such bank upon such balance shall be collected by the Treasurer of the City, and shall be by him reported in his next statement following such collection, and shall be considered and treated as part of the general funds of said City, subject to its use for any legitimate or municipal purpose. That whenever required by this

charter or by the City Council said Treasurer shall keep the funds and the accounts thereof of the different departments of the City separate. Said Treasurer shall do and perform such other acts as the City Council may require of him, and on the expiration of his term of office, or upon the same being for any reason vacated, he shall deliver to his successor in office all the moneys, securities and other property which are, or ought to be in his hands by virtue of his office.

SEC. 8. The City Manager in the collection of taxes shall be vested with the same power and authority as is given by the State to sheriffs for like purpose, and shall be subject to the same fines and penalties on failure or neglect of duty. It shall be his duty to collect all taxes levied by the City Council, and he shall be charged with the sums appearing on the tax list as due for city taxes. He shall at no time retain in his hands over two hundred dollars for a longer time than seven days, under a penalty of ten per cent. per month to be paid to the city upon all sums so unlawfully retained. In his settlement with the City Treasurer he shall be credited with all poll taxes and taxes of personal property which the City Council shall declare to be insolvent and uncollectable, and with such amounts as may be involved in suit by appeal from the ruling of the council, and he shall be charged with and shall pay over all other sums appearing on the tax list as hereinbefore provided. After the accounts of the City Manager shall have been audited and settled, the same shall be reported to the City Council and, when approved by them the same shall be recorded in the minute book of said council, and shall be prima facie evidence of correctness, and impeachable only for fraud or specified error.

SEC. 9. That for the purpose of raising revenue for defraying the expenses incident to the proper government of the city, the City Council shall have power, and they are hereby authorized to levy and collect, for general purposes, an annual ad valorem tax on all real and personal property within the corporate limits, of said city, and on all personal property including money on hand and solvent credits owned by residents of said city, and on all other property subject to an ad valorem tax under the laws of the State of North Carolina, not exempt from taxation by the constitution and laws of the said State, of and at the rate of not exceeding ninety-five cents on the one hundred dollars valuation of said property and a tax not exceeding two dollars and eighty-

five cents on each taxable poll, and for the purpose of paying interest on municipal bonds the City Council shall levy and collect an annual ad valorem tax on all property subject to taxation, as hereinbefore provided, of not more than thirty-five cents on the one hundred dollars valuation of said property and a tax not exceeding one dollar and five cents on each taxable poll. The term "real property," as usen in this article, shall be construed to mean the same as defined in section 2857 of the Revisal of 1905, and the term "personal property", as used in this article, shall be construed to mean all property which is not real. The taxes hereby authorized to be levied shall become due and payable on September the first of each year, and a discount may be allowed by the City Council for the payment of taxes as follows: For the payment of all taxes during the said month of September two per cent., during the month of October one per cent., during the month of November one-half of one per cent. And for all taxes not paid prior to January the first following, the City Council shall charge the following penalties: For taxes paid during the said month of January a penalty of one per cent, during the month of February a penalty of two per cent, and for each additional month, or a fraction thereof, thereafter said taxes shall remain unpaid, there shall be added an additional penalty of one per cent., which penalty shall be charged and collected as part of and in the same manner as such taxes.

SEC. 10. The said City Council may also levy, and collect for general purposes, a tax upon all dogs kept in the city, and which may be so kept on the first day of May of each year. The said tax shall not exceed five dollars and any dogs so taxed shall be the subject of larceny; provided, that a discrimination within the limit above fixed may be made by said council on the different species and sexes of dogs.

SEC. 11. The City Council shall have power to provide all ordinances for the assessing and prompt collection of all taxes, and to regulate the manner, mode and form of making out and swearing to tax lists or inventories and the appraisement of property in said city, and to prescribe how and when property shall thus be rendered, and shall also prescribe the number and form of assessment rolls and fix and define the number, the duties and powers of list takers, appraisers, and all other officers or agents that may be necessary for collecting the taxes, and shall adopt such measures and regulations, and pre-

scribe and enforce such penalties as it may deem advisable, to secure the due and proper assessment of all property within the limits of the city, and the collection of taxes thereupon. If all of such taxes are not paid on or before the first day of March, next following the listing of said taxes, the City Manager shall proceed to collect such taxes and penalties by distress and sale as provided by law.

SEC. 12. The City Manager shall, after the most diligent inquiry, and by comparing his book with the county tax books, make out a list of all persons liable for poll tax, or for taxes on property, who have failed to return a list in the manner and in the time prescribed, together with the estimated value of all property not listed, and shall enter such persons in a separate part of his book, and shall charge them up with double taxes. No person shall be excused from paying said double tax except on application to the City Council and for causes shown.

SEC. 13. All persons who own property and who wilfully fail to list it within the time allowed by law, and all persons who are liable for poll tax to the said city and who shall wilfully fail to give themselves in, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not more than twenty-five dollars or imprisoned not more than ten days, and it shall be the duty of the City Manager to proseoute the offenders against this section.

SEC. 14. The lien for taxes for any and all purposes in each year shall attach to all the real estate of the tax payers within the city on the first day of June annually, and shall continue until such taxes, with any penalty and costs which shall accrue thereon, shall be paid. But there shall be no lien for taxes on the personal property of the tax paper until there has been a levy thereon.

SEC. 15. That in addition to the subjects listed for taxation the City Council for the purpose of raising revenue, may levy an annual license tax on the following subjects, the amount of which taxes shall be collected by the City Manager, and if not paid when due the same may be recovered by suit brought in the name of the city, or the articles upon which the tax is imposed or any other property of the licensee may be forthwith distrained and sold to satisfy said tax, namely:

(a) Upon all itinerant merchants or peddlers vending or offering to vend in the city, a license tax not ex-

ceeding fifty dollars a year, except such only as sell books, charts, maps or wares of their own manufacture, but not excepting vendors of medicine by whomsoever manufactured; and not more than one person shall peddle under a single license.

(b) Upon every billiard table, bowling table, bowling alley, or alley of like kind, bowling saloon, bagatelle table, pool table, or table, stand or place for any other game or play, with or without a name, kept for hire, or in a house used or connected with a hotel or restaurant, a license tax not exceeding fifty dollars.

(c) Upon every hotel a license tax not exceeding fifty dollars; upon every boarding house with more than ten boarders, and every restaurant and eating house, a license tax not exceeding twenty-five dollars; and the City Council may levy the license taxes provided for in this subsection, according to the size, patronage or income of the hotels, boarding houses, restaurants, and eating houses.

(d) Upon every circus, company of circus riders or performers by whatever name called, who shall exhibit within the city, or within one mile of the corporate limits, a license tax not exceeding one hundred dollars for each performance or separate exhibition, and upon every side show connected therewith, a license tax not exceeding twenty-five dollars, the tax to be paid before exhibition, and, if not, to be doubled.

(*e*) Upon every person or company exhibiting within the city, or within one mile of the corporate limits, any stage or theatrical plays, sleight-of-hand performances, rope dancing, tumbling, high diving, wire dancing or menageries, a tax not exceeding twenty-five dollars for every twelve hours allowed for exhibiting, the tax to be paid before exhibiting, or the same shall be doubled.

(*f*) Upon every exhibition for reward of artificial curiosities, models of useful inventions excepted, within the city or within one mile thereof, a tax not exceeding twenty-five dollars, to be paid before exhibiting, or the same shall be doubled.

(g) Upon each show or exhibition of any other kind, and on each concert for reward unless for religious or charitable purposes, or by pupils of schools of the city, for school purposes, within the city or within one mile thereof, and on every strolling musician, a tax not exceeding ten dollars, to be paid before exhibiting, or the same shall be doubled: Provided, however, that plays, shows or

other amusements given in a regularly licensed hall or opera house shall not be taxed.

(h) Upon every auctioneer or crier of goods at public auction, a license tax not exceeding fifty dollars.

(*i*) Upon every stock and bond broker, oil agency, dealer in or manufacturer's agent of musical instruments, keeper of livery stables or stock yards doing business within the city, a license tax not exceeding ten dollars a year.

(j) Upon every person engaged in the business of posting, distributing or tacking up bills, posters, signs or advertisements of any kind, a license tax not exceeding twenty-five dollars.

(*k*) Upon every shooting gallery, skating rink, street huckster, ice dealer, dealer in wood and coal or either, a license tax not exceeding twenty dollars a year.

(l) Upon every telephone or electric light company, power company, street railway company, waterworks company furnishing water to the citizens of Hickory, or gas company, a license tax not exceeding one hundred dollars per annum.

(m) Upon each marble yard, undertaker, plumber, persons putting gas or water fixtures in houses or yards, and persons engaged in the electric wiring of buildings for light, power or heat, a license tax not exceeding ten dollars.

(*n*) Each garage, rope walker, itinerant dealer in lightning rods and stoves, every dealer in fertilizer, civil engineer, aurist, chiropodist, or any person engaged in the sale of any specifics, buggy or wagon agent, or any person offering vehicles for sale as a business, each architect or builder, cigar manufactory, tobacco factory tobacco warehouse, each dancing school, every agent for the sale of machinery, engines, every soda or mineral water fountain, every stallion or jack standing in the city, every lecturer for reward except for religious or charitable purposes, each dairy wagon, dairy vehicle, land agent or land broker, each butcher, persons selling jewelry or any other article having a prize given therewith, each printing office, each dealer in patent rights, a license tax not exceeding ten dollars.

(o) Upon every bank or banker, each junk shop or dealer in metals, cordage, etc., every mill, manufactory, machine shop or foundry, a license tax not exceeding fifty

dollars a year.

(p) Upon all merchants, commission merchants and commercial brokers, a license tax not exceeding twenty dollars a year.

(q) Upon every omnibus, hack, cab, carriage, dray, baggage wagon, automobile, used to transport persons, baggage, freight, or other articles for hire, a license tax not exceeding twenty dollars.

(r) On moving picture shows a license tax not exceeding twenty d s.

(s) On moving picture shows in connection with vaudeville acts or on vaudeville shows alone a license tax not exceeding fifty dollars.

(*t*) On each room or hall used as a theatre or opera house, a license tax not exceeding fifty dollars; on each firm or corporation selling pistols, bowie knives, dirks, sling shots, brass knucklers, or other deadly weapons, in addition to all other taxes a license tax not exceeding fifty dollars.

(u) On any business, profession, trade or avocation of any kind carried on in the City of Hickory not hereinbefore enumerated a license tax not exceeding one hundred dollars nor less than ten dollars.

SEC. 16. The license year shall begin on the first day of June of each and every year.

SEC. 17. The City Council shall have power to graduate any of the license taxes permitted in this article, by dividing the business into classes according to the size, patronage or income: Provided, the said taxes must be uniform for all in a class.

SEC. 18. That in addition to the subjects enumerated in the foregoing the City Council shall, for the purpose of raising revenue, have power to tax all persons, firms or corporations and all subjects of taxation which, under the constitution and laws of the State of North Carolina, are taxable by the General Assembly for State and county purposes: Provided, such tax shall not exceed one-half of that levied annually on like subjects by the State and county for State and county purposes.

SEC. 19. That the City Council may provide that all licenses issued hereunder shall be kept posted in such place as they may deem right and proper.

SEC. 20. The City Council may regulate and license chauffeurs, those who run their own automobiles or those of others, plumbers, and those engaged in the electric wiring of buildings for light, power or heat, and before

issuing a license, may require the applicant to be examined and to give bond in such sum and upon such conditions as the council may determine, and with such sureties as it may approve, and said council may, for imcompetency on the part of such licensees or for refusal to comply with the ordinances relating to such business, or for any other good causes, revoke any license issued hereunder.

SEC. 21. No person, firm or corporation shall do any kind of plumbing or electrical wiring of buildings without first having obtained a license from said council.

SEC. 22. That no license issued hereunder by said council shall be for more than one year, and same shall not be transferable or assignable except by the permission of the City Council.

SEC. 23. Any person carrying on or practising any business, profession, trade or avocation of any kind upon which a license tax has been levied, without first having obtained a license therefor, shall be guilty of a misdemeanor, and shall, upon conviction, be fined not more than fifty dollars, or imprisoned not more than thirty days.

SEC. 24. That no license shall be issued, as herein provided, before the license tax shall have been paid.

SEC. 25. The City Council shall create a sinking fund of not less than two per centum per annum of the present bonded indebtedness of the City of Hickory. The funds so created shall be a special fund to provide for the payment of said bonded indebtedness, or for the payment of bonds issued in lieu thereof, and shall not be drawn upon or diverted for the payment of the interest on said bonds or any other purpose whatever, and the City Treasurer of the City of Hickory shall honor no draft upon said fund, except to redeem the bonds for which the fund was created. The City Council may, in its discretion, postpone the creation of said sinking fund until after the year 1914; and from the beginning of the municipal year of 1915, the City Council shall have no discretion and the sinking fund shall and must be created for the amount heretofore stated.

ARTICLE XIV.

THE INITIATIVE.

SECTION 1. Any proposed ordinance may be submitted to the Council by a petition signed by the qualified registered electors of the city equal in number to the percentage hereinafter required.

SEC. 2. The provisions of Section 3 of Article III.

respecting the forms and conditions of the petition and the mode of certification and filing shall be substantially followed, with such modification as the nature of the case requires.

SEC. 3. If the petition accompanying the proposed ordinance be signed by electors equal in number to twenty-five per centum of the qualified, registered voters of the City of Hickory, and contain a request that said ordinance be submitted forthwith to the vote of the people at a special election, then the Council shall either:

(a) Pass said ordinance without alternation within twenty days after the attachment of the City Manager's certificates of sufficiency to the accompanying petition (subject to a referendary vote, under the provisoin of Article XV. of this Charter) ; or

(b) Within twenty-five days after the City Manager shall have attached to the petition accompanying such ordinance his certificate of sufficiency, the Council shall proceed to call a special election at which said ordinance without alteration shall be submitted to a vote of the people.

SEC. 4. If the petition be signed by electors equal in number to twenty-five per centum of the qualified, registered voters of the City of Hickory, and said ordinance be not passed by the Council as provided in the preceding subdivision, then such ordinance, without alteration, shall be submitted by the Council to a vote of the people at the next general municipal election that shall occur at any time after twenty days from the date of the City Manager's certificate of sufficiency attached to the petition accompanying such ordinance.

SEC. 5. Whenever any ordinance or proposition is required by this charter to be submitted to the voters of the city at any election, the Council shall order such ordinance or proposition to be published in one or more newspapers of the city for a period of twenty days immediately preceding the next general municipal election.

SEC. 6. The ballots used when voting upon such proposed ordinance shall contain the words, "For the Ordinance" (setting forth in full the title thereof and stating the general nature of the proposed ordinance) and shall be authenticated with a facsimile of the City Manager's signature. If a majority of the qualified electors voting on said ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city.

SEC. 7. Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this article.

SEC. 8. The Council may submit a proposition for the repeal of any such ordinance, or for amendments thereto, to be voted upon at any succeeding general municipal election; and should such proposition, so submitted, receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly. An ordinance proposed by petition, or adopted by a vote of the people, can not be repealed or amended except by a vote of the people.

SEC. 10. The Council may, by ordinance, make such further regulations as may be necessary to carry out the provisions of this section.

THE REFERENDUM.

SECTION 1. No ordinance passed by the council shall go into effect before thirty days from the time of its final passage except when otherwise required by the general laws of the State or by the provisions of this charter, and except an ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency; provided, that no grant of any franchise shall be construed to be an emergency measure, but all franchises shall be subject to the referendum vote herein provided. If during said thirty days a petition signed by qualified registered electors of the city equal in number to at least twenty-five per centum of the qualified, registered voters of the City of Hickory, protesting against the passage of such ordinance, be presented to the council, the same shall thereupon be suspended from going into operation and it shall be the duty of the council to reconsider such ordinance, and if the same be not entirely repealed, the council shall submit the ordinance, as is provided in Article XIV. of this charter, to the vote of the electors of the city, either at the next general municipal election or at a special election to be called for that purpose, and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. The provisions of Section 3 of Article III. respecting the forms and conditions of the petition and the mode of certification and filling shall be substantially followed, with such modifications as the nature of the case requires.

SEC. 2. Any ordinance or measure that the council or the qualified electors of the city shall have authority to

enact, the council may of its own motion submit to the electors for adoption or rejection at a general or special municipal election, in the same manner and with the same force and effect as is provided in this charter for ordinances or measures submitted on petition. At any special election called under the provisions of this charter, there shall be no bar to the submission of other questions to a vote of the electors in addition to the ordinances or measures herein provided for, if said other questions are such as may legally be submitted at such election.

SEC. 3. The council may, by ordinance, make such further regulations as may be necessary to carry out the provisions of this Article.

ARTICLE XVI.

SCHOOLS.

SECTION 1. All the territory within the corporate limits of the City of Hickory, Catawba County, as is now or shall hereafter be prescribed, shall be and remain and is hereby constituted a public school district for both white and colored children, and shall hereafter be known as the "Hickory School District." The City Council shall be charged with the duty of maintaining an adequate and sufficient system of public schools within the "Hickory School District," and shall construct and maintain proper buildings, and to that end the public school buildings and all other property now used, or which may be hereafter acquired within the City of Hickory for school purposes, shall be under their control and subject to the disposition of the City Council.

The City Council shall have the same power and authority to condemn lands, and to do and perform any and all other acts, to acquire and control school property as is given or may be conferred by law upon said council with reference to acquiring land for streets, or any other public purpose, and may control school property and grounds in like manner as it is empowered to control streets; and the said council shall also have such power not in direct conflict with the provisions of this Article, with regard to the public schools of the Hickory School District, and the officers, teachers and employees thereof as is now conferred by law upon the Board of County Commissioners of Catawba County and the Board of Education of Catawba County with regard to the public schools of the county; and the said council shall have charge of the collection of taxes to maintain the schools, and construct

school buildings, and the handling and the disbursement of all money used for school purposes.

SEC. 2. The City Council is charged with the duty of electing, annually, a competent, skilled and expert man as superintendent of the public schools of the Hickory School District and also such other teachers and employees for the conduct of such schools as may be necessary and for such time as it may indicate; provided, all teachers and other employees for the conduct of such schools as may be necessary shall be elected from a list submitted to the City Council by the superintendent, and if the City Council is unable or refuses to elect from the list so furnished, it shall call on the superintendent from time to time for other lists, which it shall be his duty to furnish.

SEC. 3. It shall be the duty of the superintendent, in making his recommendations, and the City Council, in electing persons to serve the public school interests, to consider ability, education, character, and efficiency for the performance of the duties for which such person or persons names are being considered, and allow these qualities to control in making such selection.

SEC. 4. It shall be the duty of the Superintendent of Schools of the Hickory School District to devote his time and attention exclusively to them during the school year, except when leave of absence is granted by the City Council for short periods of time for good cause.

He shall have immediate and direct control over all teachers, and janitors of the school buildings and other persons in charge thereof, and shall be responsible for their efficiency. He shall have power to discharge any teacher, or other employee connected with the schools, for any cause satisfactory to himself, and to maintain discipline and order, and establish rules and regulations for the government of the schools, and from his authority, with respect to the discharge of teachers or employees, the manner and method of appeal shall be as hereinafter set forth and not otherwise.

The fact of and reasons for the discharge of any teacher or other employee shall be reported, within twenty-four hours after such discharge, in writing to the City Council; and a copy of said report shall, within said time, be furnished to the discharged teacher or other employee and a copy furnished to the Board of School Visitors. If at least two members of the Board of School Visitors shall, in writing, recommend that the City Coun-

cil hear an appeal of the discharged teacher or employee, the City Council shall have the power and it shall be its duty to review the action taken by the Superintendent of the Public Schools of the Hickory School District; All appeals so recommended shall be promptly heard by the City Council, and from its action there shall be no appeal or review.

The Superintendent of Public Schools of the Hickory School District shall be subject to be removed from his office by the City Council for inefficiency, or other cause satisfactory to said council. There shall be no appeal or review from the action of the City Council in reference to the removal of the said superintendent.

SEC. 5. In May of the year 1913, the City Council shall, and it shall be its duty to, appoint, three persons, male or female, residents of the City of Hickory, as School Visitors of the Public Schools of the Hickory School District, one of whom shall serve during a term of three years, another shall serve during a term of two years, and the third shall serve during a term of one year.

In May of each year after the year 1913, the City Council shall, and it shall be its duty to appoint or elect a male or female resident of the City of Hickory as School Visitors of the Public Schools of the Hickory School District.

SEC. 6. The School Visitors appointed or elected as aforesaid shall constitute the Board of School Visitors of the Public Schools of the Hickory School District. The said board shall, and it shall be its duty to visit the different public schools of the city at least once each month during the school year, and, every three months submit to the City Council a written report of the conditions of the school grounds and buildings and of the method and manner in which said schools are being conducted. The said reports shall be filed in the office of the City Manager and shall, during reasonable hours, be subject to the inspection and examination of any resident of the City of Hickory. Any and all recommendations made by the Board of School Visitors shall be acted upon by the City Council in the regular course of its business within fifteen days from the time of making such report.

SEC. 7. Only persons who are bona fide residents of the City of Hickory shall be entitled as pupils to the benefits of the public schools thereof; provided, however, if there be facilities, after providing for the education of all

residents, non-residents of the city may be admitted by the City Council to the public schools of Hickory upon the payment of such charges as the City Counci may determine, by order spread upon its mintes, are just.

SEC. 8. The City Council shall annually, at the time other taxes are levied, levy a tax for school purposes of forty cents on the hundred dollars of property assessed for taxation in the City of Hickory, and $1.20 on each taxable poll, which amount shall be collected as other taxes, and deposited with the City Treasurer as other city funds, and the same shall and must be kept exclusively for school purposes, and a separate account thereof shall be kept by the tax collector and the City Treasurer.

SEC. 9. That in the apportionment of the public school funds derived from the State of North Carolina and County of Catawba, the County Board of Education of Catawba County, or others having authority under the public school laws of the State, shall determine the amount to be apportioned each year to the public schools of said Hickory School District by dividing the whole of the total amount of the county school fund, first deducting the county treasurer's commission, or part of the salary to be paid out of the said funds, and also the amount reserved by the county board of education for office expenses of the county superintendent of public schools, and for per diem and mileage of the said board, by the total number of children of school age in Catawba County as determined by the last school census preceding that apportionment, and then multiplying the quotient so obtained by the total number of children of school age within the said Hickory School District, as determined by the last census preceding that apportionment, and the amount so ascertained and determined shall be paid by the county treasurer to the treasurer of the City of Hickory, to be used exclusively for the benefit of the schools of said district under the control and direction of the City Council of the City of Hickory: Provided, that in the apportionment of the school funds of Catawba County the provisions of this section shall extend and apply only to the amount to be apportioned each year to the Hickory School District.

ARTICLE XVII.

MUNICIPAL COURT.

SECTION 1. A special court for the trial of misdemeanors and for other purposes, to be designated as the Municipal Court of the City of Hickory, is hereby established.

SEC. 2. Said court shall be a court of record with

the following jurisdiction:

(a) With excluisive original jurisdiction over all offenses arising from the violation of all ordinances, by-laws, rules and regulations of the City Council within the corporate limits of the City of Hickory and within Hickory Township.

(b) With exclusive original jurisdiction to try all actions for the recovery of any penalties imposed by law or by any ordinance of the City of Hickory for any act done or the failure to do any act within the corporate limits of the City of Hickory and within Hickory Township.

(c) With jurisdiction, power and authority for the trial and determination of all misdemeanors created by the laws of the State of North Carolina committed within the corporate limits of the City of Hickory and within Hickory Township.

(d) With exclusive original jurisdiction over all criminal offenses committed within the corporate limits of the City of Hickory below the grade of a felony, as now defined by law, and all such offenses committed within said city are hereby declared to be petty misdemeanors.

(e) With exclusive original jurisdiction to hear and determine the question of probable cause and bind over to the Superior Court of Catawba County for all offenses committed within the corporate limits of the City of Hickory above the grade of misdemeanors, where final jurisdiction is not given under this charter.

(f) No provision of this charter shall be construed to be intended to deprive courts of justices of the peace of concurrent jurisdiction with such Municipal Court of the City of Hickory over any misdemeanor now within the jurisdiction of such court, when committed without the corporate limits of the City of Hickory; Provided, however, the defendant or defendants, in any such case made returnable before a justice of the peace, may request in writing that the case be removed to and tried by the Municipal Court of the City of Hickory; and, upon such a request being filed before the introduction of any evidence, the justice of the peace shall require the defendant or defendants to enter into recognizance for his or their appearance at said municipal court on the day succeeding the filing of such request at ten o'clock A. M., on which said court is required to be open, and the witnesses in such case shall be recognized to appear at the said time and place, and the said justice of the peace shall at

once turn over to the clerk of the said municipal court the warrant, recognizance and other papers in such case.

(g) The judge of said court shall have power and authority to issue his warrants or other process for all persons charged with any offense within his jurisdiction and have such persons brought before him, and hear, try and determine the charges against them and give judgment thereon; impose fines and sentences of imprisonment, penalties and forfeitures; issue executions and otherwise direct and compel the enforcement of his judgments, subject to the limitations of this charter as to the amount of such penalties and punishments, with the right of appeal by the defendant from the judgment or sentence of the Municipal Court of the City of Hickory to the Superior Court of Catawba County, under the same provisions of law as govern an appeal from inferior courts or courts of justice of the peace. In case a defendant, witness or other person shall be adjudged to be imprisoned by the said municipal court, it shall be competent for the said court to sentence such person to imprisonment in the common jail of Catawba County, to be worked on the public roads of Hickory Township or of said county, and in case the defendant shall not pay a fine and costs for the violation of an ordinance of the City of Hickory the said court shall have authority and power to sentence the defendant in such case to work on the public streets or other public works of the City of Hickory or upon the public roads of Hickory Township or Catawba County, until such fine and costs are paid, and the defendant in such case shall have credit at the rate of one dollar ($1) per day for every day during which he shall work upon the public streets, roads or other works.

SEC. 3. Said court shall have a seal with the impression "The Municipal Court of the City of Hickory", which seal shall be used in attestation of writs, warrants or other process or acts, judgments or decrees of said court, in the same manner and to the same effect as the seals of other courts of record in the State of North Carolina.

SEC. 4. The Judge of the Municipal Court of the City of Hickory may issue his process to the Chief of Police or to the city police, or the sheriff, constable or other lawful officer of the County of Catawba; and such process, when attested by the seal of the court, shall run anywhere in the State of North Carolina, and the same shall be duly executed by all officers according to law:

Provided, that neither the Chief of Police nor the city police shall execute any process outside of the corporate limits of the City of Hickory, unless the offense was committed within the corporate limits of said city, in which latter event he may arrest the accused anywhere within the limits of Catawba County.

SEC. 5. The Municipal Judge shall charge and collect in all criminal cases, in addition to other lawful costs, the following fees, viz: As cost for the judge of said court, two dollars; as costs for the City Attorney, two dollars; for the clerk the same fees as are now allowed to Clerks of the Superior Courts in similar cases; and for all officers serving the processes of the court the fees as now allowed to police officers, sheriffs and constables serving the processes of the Superior Courts in like cases: Provided, that in the trial of cases of which a magistrate has final jurisdiction the fees allowed to the judge and the city attorney shall be one dollar each, and the clerk shall be allowed only cost for issuing subpœnas for witnesses.

(b) All costs recovered and collected in said court, except as is otherwise herein provided, shall belong to the City of Hickory and shall be paid by the clerk of said court into the office of the City Treasurer, accompanied by an itemized statement showing when and from whom received, for the use of said city and to reimburse it for the expenses of supporting the said municipal court: Provided, however, that any officer not receiving a salary from the County of Catawba or the City of Hickory, who shall execute any process, writ or subpœna issued by said court, shall be paid and shall receive the fees now prescribed by law for such service.

(c) It shall be the duty of the City Treasurer to enter upon a book kept for that purpose by him a full and detailed statement of all moneys received by him from the Clerk of the Municipal Court of the City of Hickory and a full and detailed statement of the cost or expense of maintaining the said court.

SEC. 6. The City Manager shall be clerk of the Municipal Court of the City of Hickory and it shall be his duty as clerk of said court to keep an accurate and true record of all costs, fines, penalties, forfeitures and punishments by said court imposed under the provisions of this charter. The record kept shall show the name and residence of each offender and the nature of the offense with which he was charged, the date of hearing and trial

and punishment imposed, which said record shall at all times be open and subject to inspection by the City Council or other persons having business relating to said court. He shall keep a permanent docket for recording all the processes issued by said court, which shall conform to the dockets kept by the Clerk of the Superior Court. He shall also keep in proper files, to be provided by the city, the record of all cases which shall be disposed of in the said court and what disposition has been made of the same: Provided, however, that the City Council may require the duties of the Clerk of said Court to be performed by the Judge of the Municipal Court or other officer of the city.

SEC. 7. The City Attorney of the City of Hickory shall be the prosecuting attorney in said court, whose duty it shall be to appear for the prosecution in all cases in said court.

SEC. 8. The Judge of the Municipal Court shall be elected by the City Council of the City of Hickory at its first regular meeting in May, 1913, and his term of office shall continue until the first regular meeting of said council in May, 1914; and annually thereafter the said council, at its first regular meeting in May, shall elect the Judge of the Municipal Court of said city to serve a term of one year. The salary of said judge shall be fixed by the City Council and shall not exceed sixty dollars per month.

SEC. 9. Should the Municipal Judge be prevented from attending the Municipal Court of the City of Hickory on account of sickness, absence or other disability, then in that case the Mayor of the City of Hickory shall have power and authority to appoint some discreet and qualified person to act in the place of said Municipal Judge; and upon appointment by the Mayor of such person, and after administering to him an oath of office that he will support and defend the Constitution of the United State and the Constitution and laws of North Carolina not inconsistent therewith, and will faithfully perform the duties of Municipal Judge of the City of Hickory to the best of his skill and ability, such person so appointed shall have all the jurisdiction, power and authority herein conferred upon the regular Municipal Judge of said city, and shall receive the salary provided for the office while serving.

SEC. 10. The judgments rendered by the Municipal Court of the City of Hickory under the provisions of this

charter shall have all the force, virtue and validity of judgments rendered by an inferior court under the laws of the State of North Carolina, and may be enforced and executed against the parties in the County of Catawba or elsewhere, in the same manner and by the same means; and all fines, penalties and forfeitures, fees and costs shall be collected by the Chief of Police and daily paid by him to the cerk of the said court, who shall account for the same as hereinbefore provided and as is provided by the general laws of the State of North Carolina for the disposition of fines and penalties.

ARTICLE XVIII.

MISCELLANEOUS.

SECTION 1. That the provisions of sections 2982 to section 3010 inclusive, of the Revisal of 1905 of North Carolina, and the provisions of sections of 3011a to 3011k inclusive, of volume three of Pell's Revisal of 1908, of North Carolina, shall apply to the City of Hickory, where not inconsistent with the provisions of this charter.

SEC. 2. That the provisions of Chapter 72, of the Revisal of 1905 of North Carolina, shall apply to the City of Hickory, where not inconsistent with the provisions of this charter.

SEC. 3. All questions arising in the administration of the government of the City of Hickory, and not provided for in this act, shall be governed by the laws of the State in such cases made and provided.

That in the event Chapter 71, Public Laws of North Carolina, extra session of 1908, should hereafter be repealed, then, and in that event, the laws, that, immediately prior to the passage of said chapter, applied to the City of Hickory in reference to the matter treated in said chapter, shall be the laws applicable to the City of Hickory.

SEC. 4. All ordinances of the City of Hickory not inconsistent with the provisions of this charter shall remain in full force and effect until altered, amended or repealed by the City Council.

SEC. 5. In all judicial proceedings it shall be sufficient to plead any ordinance of the City by caption or by the number of the section thereof and the caption, and it shall not be necessary to plead the entire ordinance or section.

SEC. 6. This charter shall be deemed a public act, and judicial notice shall be taken thereof in all courts and places whether or not same has been pleaded or read

in evidence.

SEC. 7. Any officer of the City of Hickory, or any member of the Board of School Trustees of the Hickory Graded School District, who shall on demand, fail to turn over all property, books, money, seals or effects of the city in his hands to his successor in office or to the officer or officers herein provided to perform the duties of such officer or member shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned not exceeding two years or fined not exceeding five hundred dollars.

SEC. 8. That on the third Monday in March, 1913, there shall be held in the City of Hickory, an election at which all voters who are then registered and qualified to vote shall be entitled to vote for the purpose of determining whether it is the will of such voters that the foregoing shall become law applicable to the City of Hickory. That the election shall be advertised by the Board of Aldermen for fourteen days prior to the holding of such election. Said advertisement shall be inserted in two of the weekly newspapers published in the City of Hickory. The said election shall be conducted in all things as are elections for Mayor and Aldermen under the present law as nearly as may be.

SEC. 9. At the voting place in said city, at such election, there shall be provided one box in which each person entitled to vote may deposit one ballot. Those wishing to vote that the foregoing provisions shall become law applicable to the City of Hickory shall vote a ballot upon which there shall be printed or written the words "For Adoption of New Charter for City of Hickory," and each of those wishing to vote against the foregoing provisions becoming law applicable to the City of Hickory shall vote a ballot on which shall be printed or written the words, "Against Adoption of New Charter for City of Hickory."

SEC. 10. The election officers within three hours from the time the polls are closed in the election to determine the question as to whether or not the foregoing provisions shall become law, shall count the ballots and certify the result to the Mayor and Board of Aldermen. The Mayor and Board of Aldermen shall, within twenty-four hours, examine such certificate and formally declare whether a majority of those voting have voted, "For Adoption of New Charter for City of Hickory," or "Against Adoption of New Charter for City of Hickory," and spread upon their minutes the record of their determination, and if it

shall appear therefrom that a majority of those voting at such election have voted "For Adoption of New Charter for City of Hickory," the foregoing sections of the proposed Charter and laws shall, as provided in Section XII of this Article, become effective and the law applicable to the City of Hickory, North Carolina.

SEC. 11. If the Mayor or any of the Aldermen of the City of Hickory shall fail to perform any of the duties imposed upon them, relative to holding elections provided for by this Act, they and each of them so neglecting shall be guilty of a misdemeanor, and, upon conviction, shall be fined or imprisoned in the discretion of the court, and shall also be liable to a penalty of one hundred dollars, one-half of which shall be payable to the County School Fund and one-half to the party who shall sue for same.

SEC. 12. Article II of this Act and Section 11 of Article XVIII, of this Act, shall be in force and effect from the date of declaring carried the election "For Adoption of New Charter for City of Hickory," in the manner above set out, and all the laws in conflict with Article II and Section 11 of Article XVIII shall be repealed by the declaring carried the election "For Adoption of New Charter for City of Hickory," and the other articles and sections of this Act shall be in force and effect from ten o'clock in the forenoon of the first Monday in May following the declaring carried the election "For Adoption of New Charter for City of Hickory," and all laws in conflict with said articles shall be deemed repealed at ten o'clock in the forenoon of the said Monday.

SEC. 13. This Act shall be in force and effect from and after its ratification.

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